

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.2327/2020

Eknath s/o Anandrao Chowdhari, **PETITIONER**
Aged 58 years, Occ.Agriculturist.
R/o. Deurwada and Tah. Warud,
District Amravati.

...V E R S U S...

- 1] The State of Maharashtra, **RESPONDENTS**
through its Secretary,
Department of Urban Development,
Mantralaya, Mumbai-32.
- 2] The Municipal Council,
Warud, District Amravati.
Through its Chief Officer.

Shri Muhammed Ateeque, Advocate for petitioner.
Shri Amit Chutke, Assistant Government Pleader for respondent no. 1.

CORAM : A.S.CHANDURKAR and G.A.SANAP, JJ.
DATED : 22nd December, 2021

ORAL JUDGMENT (Per A.S.CHANDURKAR, J.)

Rule. Rule made returnable forthwith. Heard learned counsel for the parties.

2. The petitioner claims to be a joint owner of agricultural field bearing Survey No.293/1 Mouza Warud, District Amravati. Part of the aforesaid land admeasuring 4382 sq. meter from 0.71 Are was the subject

matter of reservation in the draft development plan that was sanctioned on 16.07.2007. That land was shown as reserved for ring road as well as for playground as per Reservation No.52. Since the period of 10 years expired without any steps being taken by the Municipal Council, Warud, the petitioner on 07.05.2018 and 30.06.2018 issued notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short, 'the said Act'). By these notices, the Municipal Council was called upon to take necessary steps for acquisition of the aforesaid land pursuant to the reservation made in that regard. Since no steps were taken for the period of more than 24 months, the petitioner has approached this Court seeking a declaration that the aforesaid reservation stands lapsed.

3. Despite notice being issued on 25.09.2020 there was no appearance for the respondent no.2-Municipal Council. Hence on 13.12.2021 one opportunity was granted to the respondent no.2 to contest the writ petition. Despite grant of such opportunity, the respondent no.2 has chosen not to contest the writ petition.

4. We have heard the learned counsel for the petitioner and the learned Assistant Government Pleader for respondent no.1.

5. The uncontroverted pleadings in the writ petition indicate that the land in question was reserved at Serial No.52 for the proposed ring road and

playground. The draft development plan was sanctioned on 16.07.2007. Notice under Section 127 of the said Act was received by the Municipal Council on 07.05.2018 and 30.06.2018. Period of 24 months has lapsed from the service of the aforesaid notice. Consequentially, in absence of any steps being taken towards acquisition of the land in question, the consequences provided under Section 127 of the said Act would follow. Legal position in this regard is well settled and reference can be made to the decisions in *M/s.Girnar Traders vs. State of Maharashtra and ors. AIR 2007 SC 3180*, *State of Maharashtra vs. Bhakti Vedanta Book Trust and ors. AIR 2013 SC 1667*, *Chabildas vs. State of Maharashtra through its Secretary Urban Development and ors. AIR 2018 SC (Supp) 6* and *Shrishail Parvati Sahakari Grihaniram Sanstha vs. The State of Maharashtra and ors. 2017(4) ALL M R 373*.

6. In the light of undisputed factual position the legal consequences provided by Section 127 of the said Act ought to follow. In that view of the matter, the following order is passed :

(I) The petitioner's land shown to be reserved at Serial No.52 for proposed ring road and playground is deemed to be released from the aforesaid reservation in view of Section 127 of the said Act.

(II) The respondent no.1 shall consequently issue necessary notification conveying the aforesaid. The same be done within a period of eight weeks of the production of this order by the petitioner.

(III) It is declared that the petitioner is free to utilise the aforesaid land in the same manner as is permitted for the use of adjacent land under the relevant plan.

Rule is made absolute in aforesaid terms. No costs.

(G.A.SANAP, J.)

(A.S.CHANDURKAR, J.)

Andurkar..