

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

WRIT PETITION NO.3096/2021

Balbir Singh S/o Pritam Singh Renu,
aged about 83 Yrs., Occ. Business,
R/o "Pooran Niwas", Dalal Compound,
Raj Nagar, Katol Road, Nagpur - 440 013.

..Petitioner.

..Vs..

1. Nagpur Municipal Corporation,
through it's Municipal Commissioner,
having it's Head Office situated at
Civil Lines, Nagpur - 440 001.
2. The Municipal Commissioner,
Nagpur Municipal Corporation,
having it's Head Office situated at
Civil Lines, Nagpur - 440 001.
3. Assistant Director of Town Planning,
Nagpur Municipal Corporation,
having it's Head Office situated at
Civil Lines, Nagpur - 440 001.

..Respondents.

Mr Nitin Lalwani, Advocate for the petitioner.
Mr. Girish Kunte, Advocate for respondent Nos.1 to 3.

CORAM :- SUNIL B. SHUKRE AND
ANIL L. PANSARE, JJ.

DATED :- 1.12.2021.

ORAL JUDGMENT *(Per Sunil B. Shukre, J.)*

Heard. **Rule.** Rule made returnable forthwith. Heard finally
by consent.

2. The application for grant of building permit submitted by the petitioner is not being processed and decided admittedly on the ground that even though the land on which construction has been proposed was declared to be free of reservation by the deeming fiction of Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short “MRTP Act”) by the coordinate Division Bench of this Court in Writ Petition No.4093/2015 (Shri Balbir Singh S/o Pritam Singh Renu V/s State of Maharashtra and others) decided on 23.2.2016, only on the ground that the State of Maharashtra has not issued formal notification under Section 127(2) of the MRTP Act formally declaring that the reservation has lapsed. This issue, however, is squarely covered by the view taken by this Court in the case of Arun Motiram Nimkar V/s. The Municipal Corporation of City of Amravati and others in Writ Petition No.5589/2012 decided on 3rd July, 2013 along with other writ petitions. In paragraph 10 of the judgment, the Division Bench has observed thus:-

“10. We, therefore, hold that after the Court has pronounced under Section 127 of the said Act that the reservation in question has lapsed, such lapsing comes into force immediately and the land owner cannot be asked to await publication of such lapsing in the Official Gazette under the provisions of Section 127(2) of the said Act to enable him to develop his land in accordance with law.”

3. The facts of the present case are identical and, therefore, this

petition deserves to be allowed and it is **allowed** in terms of the prayer
clause (a). Rule accordingly. No costs.

JUDGE

JUDGE

Tambaskar.