

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

WRIT PETITION NO.147 OF 2019

Jagjivan Motiram Wasnik,
aged about 71 years, occupation :
business, r/o Ramabai Mabedkar
Chowk, Vidyanagar, Bramhapuri,
Tahsil Bramhapuri, District
Chandrapur.

... Petitioner

- Versus -

- 1) The State of Maharashtra, through
its Principal Secretary,
Urban Development Department(1)
Mantralaya, Mumbai-32.
- 2) The Municipal Council, Desaiganj-
Wadsa, through its Chief Officer,
Tahsil Desaiganj, District Gadchiroli.

... Respondents

Shri A.B. Moon, Advocate for petitioner.

Smt. M. Deshmukh, Assistant Government Pleader for respondent
no.1.

Shri A.A. Dhawas, Advocate for respondent no.2.

CORAM : SUNIL B. SHUKRE AND
ANIL S. KILOR, JJ.

DATED : OCTOBER 7, 2021

ORAL JUDGMENT (PER SUNIL B. SHUKRE, J.) :

Heard Shri Moon, learned Counsel for the petitioner, Smt. Deshmukh, learned Assistant Government Pleader for the respondent no.1, and Shri Dhawas, learned Counsel for the respondent no.2.

2) Rule, returnable forthwith. Heard finally by consent of the learned Counsel for the parties.

3) The land of the petitioner is under Reservation No.9 for the purpose of sports ground. The petitioner had sent a notice dated 21/8/2015 under Section 127 of the Maharashtra Regional and Town Planning Act calling upon the respondent no.1 to acquire the land so reserved.

4) It is seen from the reply of the respondent no.1 that requests were made to the Collector, Gadchiroli by the respondent no.2 Municipal Council for compulsory acquisition of the subject land, but in spite of the reminders sent to the Collector, no steps were taken by him and, therefore, the respondent no.1 has made a prayer in its reply, which reads thus :

“Hence, as mentioned in above paras, after considering the say of Respondent No.2, i.e. Chief Officer, Municipal Council, Desaijanj, the Hon’ble

Court may pass the suitable order as deems fit and proper.”

According to respondent no.2, on its part, steps were taken by passing a resolution that the land must be acquired and accordingly, requests were made to the Collector, Gadchiroli, but to no avail.

5) In view of the nature of reply filed by both the respondents, it can be safely inferred that both the respondents impliedly admit that no such steps as are contemplated under law for acquisition of land have been taken by the Collector. It is further seen that there is neither any preliminary survey of land undertaken as per Section 12 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 nor any declaration has been published under Section 19 of the same Act. It is thus clear that after receipt of the purchase notice dated 21/8/2015, no steps for acquisition of the land have been taken by the Authorities for the period, which was more than two years and, therefore, the petitioner has now become entitled to seek a declaration that the reservation over the land bearing Survey No.81, Mouza Virsi Tukum within the limits of Municipal Council, Desaijanj-Wadsa, District Gadchiroli has lapsed.

- 6) In the result, the petition is allowed in terms of prayer clause (1) thereof. Rule accordingly. No costs.

JUDGE

JUDGE

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