

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 1234 OF 2022**

Shaikh Abubakar Hassan

... Petitioner

Versus

The Chief Officer,

Sawantwadi Municipal Council and others

... Respondents

.....

Mr. Sangramsingh Bhonsle alongwith Ms. Samridhi Jain, Mr. Nrupal Digankar, Ms. Pushkara Bhonsle instructed by Vidhii Partners for the Petitioner.

Mr. Harshad Sathe for Respondent Nos.1 and 2.

Ms. S.D. Vyas, 'B' Panel Counsel for the State.

.....

CORAM : S.J. KATHAWALLA AND**MILIND N. JADHAV, JJ.****DATED : FEBRUARY 10, 2022****(through video-conferencing)****P.C. :-**

1. By the above Writ Petition, the Petitioner seeks directions against Respondent No.3 – State of Maharashtra through its Urban Development Department to notify the lapse of reservation of the Petitioner's land bearing Survey No.51 A 1, Hissa No. 5 A 1, admeasuring 0.09.10 R, City Survey No.4669 located at Village – Charate, Taluka – Sawantwadi, District – Sindhudurg (**the said land**), under Section 127 of the Maharashtra Regional Town Planning Act (**MRTTP Act**).
2. The Respondent No.3 vide notification dated 31st December, 1988 had reserved the Petitioner's land for putting up a hostel for Public Welfare Department.

As the said land was not acquired within 10 years from 31st December, 1988, the Petitioner issued a purchase notice under Section 127 of the MRTP Act on 30th September, 2014.

3. Upon receipt of the said purchase notice, Sawantwadi Municipal Council passed a resolution dated 5th November, 2014 resolving that the said land ought to be acquired by the Social Welfare Department within 12 months from the date of the purchase notice and that the Social Welfare Department should act on the purchase notice, if they are interested in acquiring the said land. This communication was never responded to by the Social Welfare Department to Respondent No.1.

4. In fact, today a letter dated 10th February, 2022 issued by the Additional Commissioner, Social Justice, Sidhudurg to the CEO, Nagarparishad, Sawantwadi, is placed before us, wherein it is stated that since the Social Welfare Department has already acquired some other property for the purpose of putting up a hostel, they do not require the Petitioner's land and they have no objection if the purpose of reservation is changed or the said land is dereserved.

5. Since admittedly the Respondents have in the last six years not acted on the purchase notice dated 30th September, 2014 and no defence is made available to the relief sought in the above Writ petition, the Writ Petition is allowed in terms of prayer clause (a), which is reproduced hereunder :

“(a) That this Hon'ble Court may be pleased to issue a Writ of Mandamus or a Writ in the nature of a Mandamus, directing the

Respondent No.3 to notify u/s. 127(2) of the MRTP Act by an order in the Official Gazette, the lapsing of the Reservation No.50 of a Hostel for the Public Welfare Department of the Government of Maharashtra on Survey No.51 A 1, Hissa No.5 A 1, admeasuring 0.09.10 R, City Survey No.4669 located at Village – Charate, Taluka – Sawantwadi, District – Sindhudurg notified vide the Revised Development Plan dated 31.12.1988 of the Respondent No.1 within a period of 1 month.”

6. Respondent No.2 shall issue the notification under Section 127(2) of the MRTP Act within a period of six weeks from today.
7. The above Writ Petition is accordingly disposed off.

(MILIND N. JADHAV, J.)

(S.J. KATHAWALLA, J.)

KANCHAN
PRASHANT
DHURI

Digitally
signed by
KANCHAN
PRASHANT
DHURI
Date:
2022.02.14
19:25:41
+0530