

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4530 OF 2021

Smt. Priya Vijaykumar Yadnyopavit & Ors. ... Petitioners
Vs.
State of Maharashtra, Through its Department
of Urban Development & Ors. ... Respondents

Mr. Chetan Patil for the Petitioners.
Mr. N. M. Mehra, AGP for the Respondent-State.
Mr. Abhijit Adagule for Respondent Nos.2 and 3.

**CORAM : S.V. GANGAPURWALA &
ARIF S. DOCTOR, JJ.**

DATED : 24TH NOVEMBER 2022

PC. :

Rule. Rule is made returnable forthwith. With the consent of
the parties, taken up for final hearing.

1. After hearing the learned Advocates for the respective parties,
the undisputed facts are culled out as under :-

The revised development plan for Kolhapur City was published on 18th
December 1999. The Petitioner's property bearing City Survey No.2890,
admeasuring 211.5 square meters is reserved for road widening. No steps
were taken by the Respondent-Corporation. The Petitioners issued notice
on 22nd June 2016 under Section 127 of the Maharashtra Regional And

Town Planning Act, 1966 ('MRTP Act'). The planning authority under reply dated 20th July 2016 contended that necessary documents as required under Section 127(1) of the MRTP Act are not annexed. As such, the notice is improper. The Petitioner issued a fresh notice on 07th February 2017 alongwith the necessary documents. The same is received by the Corporation on the same date.

2. The learned Advocate for the Respondent-Corporation submits that the second notice is not a notice under Section 127 of the MRTP Act, but it is only a compliance letter of submitting the documents of ownership.

3. We have perused the notice dated 07th February 2017. The said notice can be said to be a notice under Section 127 of the MRTP Act.

4. It is not disputed that till date the declaration under Section 126 of the MRTP Act read with Section 19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has not been issued.

5. Section 127 of the MRTP Act is a fetter on the power of domain.

6. If within a period of two years, the steps for acquisition, i.e., issuance of declaration under Section 126 of the MRTP Act read with Section 19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is not issued, the property stands released from the reservation.

7. In light of that, the subject property stands released from reservation. The Government shall issue notification accordingly within a period of six months.

8. Rule accordingly made absolute. No costs.

(ARIF S. DOCTOR, J.)

(S.V. GANGAPURWALA, J.)