

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

WRIT PETITION NO. 865 OF 2020

Pravin s/o Dadaji Khobragade,
age 43 years, Occ. Business,
R/o ward No. 9, Mul, Tahsil : Mul,
District Chandrapur.

PETITIONER

.....VERSUS.....

1. State of Maharashtra,
Through its Secretary,
Department of Urban Land Development,
Mantralaya, Mumbai – 440032.
2. The Collector, Chandrapur.
3. Town Planning Officer,
Regional Town Planning Department,
Administrative Building, Opp. S.T. Bus Stand,
Chandrapur.
4. Municipal Council, Mul,
through its Chief Officer, Mul,
Tahsil : Mul, District Chandrapur.

RESPONDENTS

Ms. S.P. Giratkar, Advocate for the petitioner.
Mr. D.P. Thakare, A.G.P. for respondent Nos. 1 to 3/ State.
Ms. Kirti Satpute, Advocate for respondent No.4.

CORAM : A.S. CHANDURKAR AND URMILA JOSHI - PHALKE, JJ.

DATE : 13TH JUNE, 2022.

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

RULE. Rule made returnable forthwith and heard the learned
Counsel for the parties.

2. The petitioner claims to be the owner of the land bearing
survey No. 145 at Tahsil - Mul, District - Chandrapur having purchased

the same on 21/02/2008 under the development plan sanctioned by the State Government on 25/10/2001. The said land was shown to be reserved for garden.

3. On 19/12/2017, the petitioner issued a notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short “the said Act”) calling upon the planning authority as well as the Municipal Council – respondent No.4 to acquire the said land for the purpose for which it was reserved. Along with the notice, 7/12 extract was submitted to the Municipal Council. This notice has been duly served on the Municipal Council. Since, no steps were taken for acquiring the land in question, the petitioner had filed Writ Petition No. 856/2019. Since, it was found that the said Writ Petition was filed prior to expiry of period of 24 months, the same was permitted to be withdrawn with liberty to take appropriate steps after completion of 24 months. Accordingly, the present Writ Petition has been filed.

4. The learned Counsel for the petitioner submits that the period of more than ten years has now lapsed since the land in question was shown in the development plan prepared by respondent No.1. The notice period of 24 months has also lapsed after 19/12/2017. Since, no steps have been taken by respondent No.4 to acquire the land in question, it is deemed that the reservation has lapsed after a period of 24 months.

5. The learned Counsel for respondent No.4, by relying upon the affidavit-in-reply, submitted that the documents of title were not submitted along with the aforesaid notice. However, on 18/03/2021, the Municipal Council had passed a resolution stating therein that on account of financial constraints, it would not be in a position to acquire the said land for the purpose for which it was reserved. It is also pointed out that initially, on 13/12/2019, steps had been taken to acquire the said land in question, but by passing subsequent resolution, it was indicated by the Municipal Council that it would not be feasible to acquire the said land.

6. On hearing the learned Counsel for the parties and on perusing the documents on record, it is clear that the notice dated 19/12/2017 has been served on the Municipal Council. Along with that notice, 7/12 extract of the said land was annexed. This document indicates interest of the petitioner in the said land. Since, notice has been duly served and the statutory period of 24 months has now lapsed, it is clear that in the absence of any steps taken for acquiring the said land, the deeming fiction contained in Section 127 of the said Act would apply. As a result, on expiry of period of 24 months from service of such notice, the reservation subjected to the said land would stand lapsed.

7. Accordingly, the following order is passed :

ORDER

It is declared that the land bearing survey No. 145 ad measuring 0.60 R stands released from reservation, the same having lapsed under Section 127 of the said Act. Respondent Nos. 1 and 2 shall take steps to notify the de-reservation of the aforesaid land expeditiously and within a period of three months from today. The petitioner is free to develop his land in accordance with the development as permitted for the adjoining land.

8. Rule is made absolute in aforesaid terms with no order as to costs.

(URMILA JOSHI – PHALKE, J.)

(A.S. CHANDURKAR, J.)

SUMIT