

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

WRIT PETITION NO.471 OF 2022

- 1) Narendra Vasudev Prasad Gupta,
age 75 years, occupation : business,
- 2) Smt. Mithalesh Narendra Gupta,
age 65 years, occupation : household,
- 3) Ajay Narendra Gupta, age 47 years,
occupation : business,
- 4) Kalikaprasad Vasudev Gupta,
deceased, through his legal heirs :
 - (a) Sandip Kalikaprasad Gupta,
age 40 years, occupation : business,
 - (b) Sanjay Kalikaprasad Gupta,
age 53 years, occupation : business,
 - (c) Smt. Kamlesh Kalikaprasad Gupta,
age 75 years, occupation : household,

All 1 to 4 are r/o Gandhi square,
Ballarpur, Taluq Ballarpur,
District Chandrapur.

... Petitioners

- Versus -

- 1) The State of Maharashtra, through
the Director of Town Planning,
State of Maharashtra, Central Building,
Pune-1.
- 2) The Municipal Council (M.C.)/Nagar
Parishad, Ballarpur, through its Chief Officer
Taluq Ballarpur, District Chandrapur.

- 3) Assistant Town Planner, Chandrapur,
Town Planning & Valuation Office,
Chandrapur, Branch Office,
Prashaskiy Building, 2nd Floor, Room
no.23, Chandrapur, Pin-442101.
- 4) The Collector of Chandrapur, through
Sub-Divisional Officer, Ballarpur,
acting as Special Land Acquisition
Officer, Sub-Divisional Office, Ballarpur,
District Chandrapur. ... Respondents

Shri G.K. Mundhada, Advocate for petitioners.

Shri K.L. Dharmadhikari, Assistant Government Pleader for
respondent nos.1, 3 and 4.

Shri D.M. Kale, Advocate for respondent no.2.

CORAM : SUNIL B. SHUKRE AND
G.A. SANAP, JJ.

DATED : SEPTEMBER 13, 2022

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

Rule. Rule is made returnable forthwith. Heard finally
by consent of Shri Mundhada, learned Counsel for the petitioners,
Shri Dharmadhikari, learned Assistant Government Pleader for the
respondent nos.1, 3 and 4 and Shri Kale, learned Counsel for the
respondent no.2.

2) It is not in dispute that period of more than two years has lapsed since receipt of purchase notice under Section 127(1) of the Maharashtra Regional and Town Planning Act, 1966 (hereafter “the Act” for brevity) by the respondent no.2. The ownership of the subject land to be with the petitioners is also a fact, which is not in dispute. Another fact, which is not in dispute, is that no steps for acquisition of the subject land as contemplated under Section 127 of the Act have been taken by the respondent no.2 in the sense that no notification under Section 19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has been issued. Admittedly, the proposal sent by the respondent no.2 to respondent no.1 for compulsory acquisition of the subject land has been returned by the respondent no.1 pointing out certain lacunae in the proposal and these lacunae as per requirement of Section 127(1) of the Act are not to be removed by the petitioners, but by the respondent no.2, which is also the view taken by coordinate Bench of this Court in the case of **Abdul Gani N Wadwan vs. State of Maharashtra and others** (2018 LawSuit (Bom) 1003). The ingredients of Section 127(1) of the Act for declaring lapsing of the land under reservation have been fulfilled in this case and the result is that this petition deserves to be allowed.

3) Accordingly, the petition is allowed in terms of its prayer clause (A). The respondent no.1 is directed to issue necessary notification under Section 127(2) of the Act within a period of three months from the date of receipt of this judgment.

4) Rule is made absolute in the above terms. No costs.

JUDGE

JUDGE

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