

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

WRIT PETITION NO.2463 OF 2020

1. Dnyandeo s/o Haribhau Katkar,
aged 59 years, Occupation Agriculturist
and Business, R/o Ekta Nagar
Tq. And District Buldana
 2. Tikamchand Bhagwandas Wadhavani,
Aged about 56 years, Occupation Business,
R/o Wankhede Layout, Buldana,
Tq. And District Buldana
 3. Bhajanlal Sundarlal Begwani,
Aged about 65 years, Occupation Business,
R/o Wankhede Lay-out, Buldana,
Tq. And District Buldana
- ... Petitioners

-vs-

1. State of Maharashtra,
Through Secretary, Urban Development,
Mantralaya, Fort, Mumbai 44032.
 2. Municipal Council, Buldana,
Through its Chief Officer, Buldana,
R/o Tq and District Buldana
 3. Collector Buldana - Collectorate Office
Civil Lines, Buldana
- ... Respondents

Shri S. S. Deshpande, Advocate for petitioners.
Ms N. P. Mehta, Assistant Government Pleader for respondent Nos.1 and 3.
Shri Mangesh Bute, Advocate for respondent No.2.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.
DATE : August 19, 2022

Oral Judgment : (Per :A. S. Chandurkar, J.)

Rule. Rule made returnable forthwith and heard the

learned counsel for the parties.

According to the petitioners the development plan of the city of Buldana came into force from 01/01/1991. The petitioners are owners of land Survey No.28/6-7 admeasuring 0.60HR situated at Mouza-Buldana Taluka and District Buldana. The said land has been purchased by them vide sale-deed dated 12/04/2012. The said land was shown to be reserved at Sr.No.4 for garden. After expiry of period of ten years from issuance of the development plan, on 02/11/2015 the petitioners issued a notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short, the said Act) upon the Municipal Council calling upon it to purchase the aforesaid land for garden as per the development plan. Since no steps have been taken thereafter by the Municipal Council to acquire the said land, the petitioners have filed the present writ petition seeking a declaration that the said reservation has lapsed.

Correction in
para Nos.1 and 4
is carried out as
per Honb'ble
Court's order
dt.04/10/2022

2. In the reply filed on behalf of the Municipal Council it has been stated that on account of its financial condition it was not in a position to acquire the said land. The receipt of notice under Section 127 of the said Act is not disputed.

3. On hearing the learned counsel for the parties and after

perusing the documents on record it is clear that the land in question was shown to be reserved for garden at Sr.No.4. The issuance of purchase notice dated 02/11/2015, its receipt and the fact that the period of twenty four months have elapsed thereafter is not disputed. On the contrary the Municipal Council has expressed its inability to acquire the said land. As a result, on expiry of period of twenty four months from receipt of such notice the deeming effect under Section 127 would expire.

4. Hence for aforesaid reasons it is declared that reservation No.4 for garden in respect of land Survey No.28/6-7 admeasuring 0.60HR situated at Mouza Buldana Taluka and District Buldana has lapsed under Section 127 of the said Act. The respondent No.1 shall within a period of eight weeks from receipt of copy of this judgment issue a notification indicating reservation No.4 of land Survey No.28/6-7 admeasuring 0.60HR as having lapsed.

The petitioners are free to utilize the aforesaid land in accordance with the purpose as permissible for the adjoining land.

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