

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

WRIT PETITION NO. 3248/2018

M/s R.V. Builders and Developers,
A Registered Partnership Firm, Having its Office
at C-102, Shree Ganesh Apartments, Kotwal Nagar,
Ring Road, Nagpur. Represented by its authorized
Signatory/Partner Sanjay Manikrao Kachore, aged - 53.

PETITIONER

.....VERSUS.....

1. State of Maharashtra,
through the Principal Secretary,
Department of Urban Development,
Mantralaya, Mumbai-32.
2. The Municipal Commissioner,
Nagpur Municipal Corporation, Nagpur.
3. The Assistant Director, Town Planning,
Nagpur Municipal Corporation, Nagpur.
4. The Nagpur Municipal Corporation,
Through the Municipal Commissioner,
Civil Lines, Nagpur.

RESPONDENTS

Shri H.S. Puranik, counsel for the petitioner.
Shri A.A. Madiwale, Additional Government Pleader for the respondent no.1.
Shri A.M. Kukday, counsel for the respondent nos.2 to 4.

CORAM : A. S. CHANDURKAR AND ANIL L. PANSARE, JJ.

DATE : DECEMBER 08, 2022.

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

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

2. The petitioner, a Registered Partnership Firm, claims ownership of agricultural land bearing Khasra No.236/3, Mouza Chinchbhavan, Sheet No.755/44 and 756/46, admeasuring 0.82 HR. In the final development plan for the city of Nagpur that became operative

from January-2001, land to the extent of 0.82 HR was shown to be reserved for City Transport Stand. Since no steps for acquiring the said land were taken by the respondents, the petitioner on 22.12.2015 issued a notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short, 'the Act of 1966') calling upon the respondent nos.2 and 3 to acquire the aforesaid land. In response the respondent no.3 on 27.01.2016 sought certain documents of title from the petitioner. The petitioner-Firm in compliance with the aforesaid submitted various documents on 04.03.2016 which included the property card, measurement map and 7/12 extracts. Thereafter on 01.10.2016 the respondent no.3 sought further documents including the measurement map - 'K' Prat from the petitioner. Reply was given by the petitioner on 06.04.2017 stating therein that all necessary documents had already been supplied and that the petitioner had been called for discussing the offer for grant of transferable development rights. Since the aforesaid land was not acquired, the present writ petition has been filed seeking aforesaid declaration.

3. We have heard the learned counsel for the parties and we have perused the documents placed on record. It is seen that on 06.11.2015 and 15.12.2015 the respondent no.3 had issued letters to the petitioner stating therein since portion of Khasra No.236 was sought to be

acquired for the City Transport Stand, the Corporation was intending to grant transferable development rights to the petitioner. The response of the petitioner was sought in that regard. It is thereafter that on 22.12.2015 notice under Section 127 of the Act of 1966 came to be issued. It is further seen that alongwith the said notice as well as subsequent communication dated 04.03.2016 various documents indicating the interest of the petitioner were sent to the respondent nos.2 and 3. It is thus clear from the letters sent by the respondent no.3 even prior to issuance of the notice under Section 127 of the Act of 1966 that after being satisfied about the title of the petitioner an offer of transferable development rights came to be made to the petitioner. It is thus clear that the communications dated 06.11.2015 and 15.12.2015 coupled with the documents sent alongwith the notice under Section 127 of the Act of 1966 indicate the legal interest of the petitioner to seek aforesaid declaration.

4. It is an undisputed position that after receipt of notice under Section 127 of the Act of 1966, no steps towards acquisition of the said land have been taken by the respondents. The statutory period of twenty four months has since elapsed. It is thus clear that by virtue of the deeming fiction contemplated by Section 127(1) of the Act of 1966 the reservation on the aforesaid land is deemed to have lapsed.

5. For aforesaid reasons, we find that the petitioner is entitled for the relief as sought in the writ petition. Accordingly, it is declared that the reservation as regards 0.82 HR land from Khasra No.236/3, Mouza Chinchbhavan, Sheet No.755/44 and 756/46 is deemed to have lapsed under Section 127 of the Maharashtra Regional and Town Planning Act, 1966. The respondent no.1 shall within a period of three months from the receipt of copy of this judgment issue necessary notification. The petitioner is free to develop the land in the manner permissible for the adjoining land holder as per the Development Plan. The writ petition is disposed of. Rule accordingly. No costs.

(ANIL L. PANSARE, J.)

(A.S. CHANDURKAR, J.)

APTE