

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

WRIT PETITION NO.3293 OF 2021

1. Madan Mulchand Purohit
Aged 74 years, Occ. Agriculturist,
R/o Near Bus stop, At Sajanpuri,
Post Khamgaon, Dist. Buldhana

2. Rajesh Muchand Purohit,
Aged 54 years, Occ. Shopkeeper,
R/o Amdapur Road, At Sanjanpuri,
Tq. Khamgaon, Dist. Buldhana

... Petitioners

-vs-

1. State of Maharashtra,
Urban Development Department,
Mantralaya, Mumbai 443001,
Through its Secretary

2. Municipal Council, Khamgaon,
through its Chief Officer, Khamgaon,
Tq. Khamgaon, Dist. Buldhana,
Maharashtra 443001

3. Town Planner, Municipal Council,
Khamgaon, Tq. Khamgaon, Buldhana,
having office at Main Road, Buldhana,
Maharashtra 443001

... Respondents.

Shri A. R. Deshpande, Advocate for petitioners.

Shri N. R. Patil, Assistant Government Pleader for respondent No.1/State.

Respondent Nos.2 and 3 served.

CORAM : A. S. CHANDURKAR AND SMT M. S. JAWALKAR JJ.

DATE : March 28, 2022

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

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

Despite service of notice for final hearing, there is no appearance on behalf

of respondent Nos.2 and 3.

2. The petitioners are the owners of field bearing Gat No.67 admeasuring 2H 84R situated at Sajanpuri, Tq. Khamgaon, Dist. Buldhana. On 30/04/1992 notification was published proposing modification of the draft development plan and accordingly the final development plan came into effect from 01/08/1992. Portion of the aforesaid land owned by the petitioners was subjected to reservation No.71 for establishment of Truck Terminus. The petitioners accordingly on 15/05/2019 issued a purchase notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short, the Act of 1966) on the respondents. This notice was served on the respondents on 15/05/2019. Thereafter on 11/10/2019 the Municipal Council issued a communication to the petitioners stating therein that it had received the purchase notice issued by the petitioners, but a copy of the measurement-sheet was not submitted along with the documents showing interest in the land in question. The petitioners were called upon to submit the measurement-sheet within a period of one month. Accordingly on 31/10/2019 the petitioners submitted a copy of measurement-sheet which was received by the Municipal Council on the same day. Since the period of twenty four months have elapsed from the service of the purchase notice, the petitioners have filed the present writ petition seeking a declaration that the reservation in question has lapsed.

3. Heard the learned counsel and perused the documents on record. There is no opposition to the writ petition. The purchase notice dated 10/05/2019 was

received by the Municipal Council on 16/05/2019. This aspect is clear from the communication dated 11/10/2019 issued by the Municipal Council seeking a copy of measurement-sheet from the petitioners. Though it was not necessary to call for copy of the measurement-sheet, the same has been supplied by the petitioners. Despite lapse of period of twenty four months from service of the purchase notice, no effective steps towards acquisition of the petitioners' land has been taken by the Municipal Council. The deeming effect of Section 127 of the Act of 1966 will therefore operate resulting in lapsing of the reservation.

4. In view of aforesaid, by accepting the un-controverted averments in the writ petition, the same is allowed. It is declared that Reservation No.71 for Truck Terminus in respect of portion of the petitioner's land from Gat No.67 admeasuring 2H 84R situated at Sajanpuri, Tq. Khamgaon, Dist. Buldhana has lapsed.

The respondent No.1 shall issue necessary notification indicating the aforesaid within period of six weeks from receipt of copy of this judgment.

The petitioners are free to develop the said land as permissible in the case of the adjacent land under the relevant plan.

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

(Smt M. S. Jawalkar, J.)

(A. S. Chandurkar, J.)