

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

WRIT PETITION NO. 4004 OF 2022

Prakash S/o. Kasturchandji Chandak,
Aged about 70 years, Occ. - Agriculture,
R/o. Murti Road, Katol,
District - Nagpur.

.... **PETITIONER**

// **VERSUS** //

- 1) State of Maharashtra,
through its Principal Secretary,
Urban Development Department,
Mantralaya, Mumbai – 32.
- 2) Municipal Council, Katol,
through its Chief Officer,
Katol, District – Nagpur.

.... **RESPONDENTS**

Mr. K.J. Topale, Advocate for petitioner.
Mrs. N.P. Mehta, Assistant Government Pleader for respondent
No.1.
Mr. M.I. Dhatrak, Advocate for respondent No.2.

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

DATED : 26.09.2022

ORAL JUDGMENT : (Per Sunil B. Shukre, J.)

1. Heard. **Rule.** Rule made returnable forthwith. Heard finally
by consent of the learned counsel appearing for the parties.

2. The reply filed by respondent No.2 – Municipal Council, Katol is categorical. In paragraph No.3, it is stated that the issue in question was taken up in the General Body meeting of the Municipal Council, Katol as subject No.46 on 20.04.2022 and in this meeting, after discussion, it was unanimously resolved that the subject land which is currently reserved for the purposes of Shopping Center and D.P. Road should not be acquired and this fact should be intimated to the land-owner. This reply is well-supported by copy of the Resolution bearing No. 46/2022.

3. It is, thus, clear that the subject land is not proposed to be acquired by the Municipal Council – respondent No.2, under Section 126 of the Maharashtra Regional and Town Planning Act, 1966 (for short the “MRTP Act”). Besides, there is no dispute about receipt of notice by respondent No.2 which is a purchase notice by respondent No.2, under Section 127 of the MRTP Act. These facts would entail this Court to allow this petition by issuing necessary directions.

4. The Writ Petition is, therefore, allowed in terms of prayer clause (a) which reads as under :

“(a) issue appropriate writ, order or direction and declare that all the reservations of any kind in the land survey no. 294 of Village Katol situated within the limits of Municipal Council, Katol vide reservation no. 99 (Shopping Centre) and 12 mts.

D.P. Road, under development plan of Katol stand lapsed under section 127 of the Maharashtra Regional and Town Planning Act, 1966 and the petitioner is free to use his land for his own purpose, in the interest of justice.”

5. We direct that lapsing of the land shall be published accordingly by seeking necessary approvals within three months from the date of the order.

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

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)

Kirtak