

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

WRIT PETITION NO.1746 OF 2021

1. Rambhau Kisanji Poke,
Age 76 years,
Occ. Agriculturist,
2. Vilas Rambhau Poke,
Age 53 years,
Occ. Agriculturist and business,
3. Umesh Rambhau Poke,
Age 42 years,
Occ. Agriculturist,
Pet. Nos.1 to 3 All R/o
Bilanpura Achalpur,
Dist. Amravati

... Petitioners

-vs-

1. The State of Maharashtra
Through the Secretary,
Urban Development Department,
Mantralaya, Mumbai 32
2. Assistant Director of Town Planning,
Tatte Building, Behind Labor Court,
Camp, Amravati 444602
3. The Municipal Council,
Achalpur, Through its
Chief Officer, Achalpur,
Tq. Achalpur, Dist. Amravati

... Respondents.

Shri G. K. Mundhada, Advocate for petitioners.
Shri A. S. Fulzele, Additional Government Pleader for respondent Nos.1 and 2.
Shi R. R. Prajapati, Advocate for respondent No.3.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.

DATE : September 21, 2022

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

Rule. Rule made returnable forthwith and heard the learned

counsel for the parties.

Land admeasuring 76R from Survey No.20/1 situated at village Kheltapmali Tq. Achalpur, District Amravati is shown to be reserved in the development plan of the city of Achalpur dated 15/01/2003 at Serial No.62 for Garden. After expiry of the period of ten years the petitioners on 29/08/2016 issued a notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short, the said Act) calling upon the Municipal Council to purchase the said land. There was no response to the aforesaid notice. The petitioners thus have sought a declaration that the reservation in question has lapsed under Section 127 of the said Act.

2. In the reply filed on behalf of the Municipal Council, receipt of notice dated 29/08/2016 has been admitted. It is further stated that on account of its financial condition, no further steps have been taken to acquire the land for the purpose for which it was reserved.

3. In the light of admitted position that though period of more than ten years has elapsed from publication of the development plan on 15/01/2003 and no steps having been taken even after issuance of notice under Section 127 of the said on 29/08/2016 to acquire the said land, on expiry of the period of twenty four months the reservation in question is

deemed to have lapsed under Section 127 of the said Act. Accordingly the following order is passed :

- (i) It is declared that Reservation No.62 for Garden with regard to land admeasuring 76R bearing Survey No.20/1 situated at village Kheltapmali Tq. Achalpur, District Amravati is deemed to have lapsed under Section 127 of the Maharashtra Regional and Town Planning Act, 1966.
- (ii) The respondent No.1 shall within a period of eight weeks of receipt of this judgment issue a notification indicating lapsing of aforesaid reservation.
- (iii) The petitioners will be free to develop the said land as permissible for the adjoining land as per the Development Rules.

The Writ Petition is allowed in aforesaid terms.

Rule accordingly. No costs.

(Urmila Joshi-Phalke, J.)

(A. S. Chandurkar, J.)

Asmita