

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD.**

**902 WRIT PETITION NO.1989 OF 2023**

RAMDEOBABA REAL INFRA, THROUGH PARTNER  
GOPAL HARIKISANJI CHANDAK  
VERSUS  
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY AND  
OTHERS

...  
Advocate for Petitioners : Mr. G. K. Mundhadha h/f Mr. D. P. Palodkar  
AGP for Respondent/State : Mr. S. W. Munde  
Advocate for Respondent Nos. 2 and 3 : Mr. A. B. Kadethankar  
Advocate for Respondent No. 4 : Mr. N. N. Desale  
...

**CORAM : RAVINDRA V. GHUGE  
AND  
Y. G. KHOBRAGADE, JJ.**

**DATED : 07<sup>th</sup> JULY 2023**

**PER COURT : -**

1. By this petition, the petitioner prays that the acquisition by the appropriate authority, which is respondent no. 3 – MHADA, has lapsed. The petitioner has put forth prayer clause 'A' as under : -

"A. Declare that as no proposal for acquisition for issuance of notification u/s 126 of MRTP Act read with Section 19 of The Right to Fair Compensation And Transparency In Land Acquisition Rehabilitation, Resettlement Act 2013, to The Collector Dhule in spite of orders of directions u/s 49(4) of MRTP Act of confirmation of purchase notice within a period of twelve months (12) from the date of confirmation by Secretary Urban Development Department, Mantralaya, Mumbai (Respondent no.1) to MHADA i.e. respondent no. 3 reservation for the purpose of MHADA vide reservation no. 200 & 201 of land owned by the petitioner of Survey no. 519/2/B, area admeasuring 0.94HR; Survey no. 519/2/C, area admeasuring 0.94HR,

Survey no. 519/2/D, area admeasuring 0.95HR; and Survey no. 519/3, area admeasuring 0.80HR total area admeasuring 3.63HR of Village Dhule, Tq. Dhule, Dist. Dhule has lapsed under sub-section (7) of section 49 of the Maharashtra Regional and Town Planning Act, 1966 and that the petitioners are free to develop the land owned by him in the manner permissible to adjacent land as per Development Plan.”

2. We have considered the submissions of the learned counsel for the respective sides and have perused the petition paper-book as well as the affidavit filed by respondent no. 2. There is no dispute as regards the factual position which is as under : -

| Particular of incidence                                                                                                                                                                                                                                                                    | Date       |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| Purchase notice u/s 49 served on Respondent no. 1 to 4.                                                                                                                                                                                                                                    | 14.06.2021 |
| Hearing before Respondent no. 1 in which respondent no. 2, 3 and 4 were present                                                                                                                                                                                                            | 10.11.2021 |
|                                                                                                                                                                                                                                                                                            |            |
| Order of confirmation under sub-section 4 section 49, passed by respondent no. 1 by which Respondent no. 3 was directed to forward the proposal to the Collector Dhule to commence the acquisition of said land within the statutory period of 12 months from confirmation of said notice. | 14.12.2021 |
| Last Date for sending the proposal of Acquisition u/s 19 of the Act of 2013.                                                                                                                                                                                                               | 13.12.2022 |
|                                                                                                                                                                                                                                                                                            |            |

3. The learned advocate representing respondent no. 2 submits in the light of the affidavit in reply dated 13.04.2023, that the authority has already informed the State that the land is no longer required because it is not a feasible project. According to the learned advocate, Section 127(2) of the Maharashtra Regional Town Planning Act, would apply.

4. It appears that the petitioner has tendered a purchase notice under Section 49(1) and the said notice has not been acted upon coupled with the fact that respondent no. 2 has declared that it does not require the said land.

5. **This petition is allowed.** Considering the statement made, on instructions, that the notification would be issued under Section 127(2) within sixty (60) days, that we are not issuing any further directions.

**[Y. G. KHOBRAGADE]**  
**JUDGE**

**[RAVINDRA V. GHUGE]**  
**JUDGE**