

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 REVIEW APPLICATION (CIVIL) NO.224 OF 2023
IN WP/9610/2019

VINOD RAMNARAYAN AGRAWAL AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY AND OTHERS

...
Advocate for Applicants : Mr. A.P. Nahar h/f. Mr. Bhandari Anand P.
Addl. GP for the respondent – State : Mr. S.B. Yawalkar
Advocate for respondents 5 and 6 : Mr. V.G. Kodale h/f. Mr. V.D. Gunale
...

**CORAM : MANGESH S. PATIL &
S.G. CHAPALGAONKAR, JJ.**

DATE : 3 NOVEMBER 2023

PC :

Heard learned advocate for the petitioner Mr. Nahar h/f. Mr. Bhandari.

2. The petitioners are seeking review of our order dated 24-04-2023 wherein inter alia discussing the disputed issues regarding lapsing of the reservation, though we had arrived at a conclusion that indeed hypothetically it was a matter wherein the reservation had lapsed under section 127 of the Maharashtra Regional and Town Planning Act, 1966 (**MRTP Act**), we had dismissed the petition solely on the ground that notice under section 127(1) was issued on 07-09-2017 and the petition was filed on 04-07-2019 before the lapse of the statutory period of 24 months. In the process, we had also relied upon the decision in the matter of ***Prafulla C. Dave Vs. Municipal***

Commissioner; (2015) 11 SCC 90 and that of the full bench of this Court in the matter of **Madanlal Zumberlal Nahar and others Vs. The Chief Officer Municipal Council Beed and others in writ petition no. 2260/2010 WP/4232/2008** decided on 13.03.2023.

3. The learned advocate for the petitioner adverts our attention to the prayer clause in the petition and submits that the petitioners had even prayed for a declaration and quashing and setting aside of the impugned communication dated 16-11-2018 whereby the notice issued by the petitioner under section 127(1) was rejected by the planning authority. He submits that once having found that the impugned communication was not within the parameters of law, the petitioners ought to have been granted declaration and the communication ought to have been quashed and set aside.

4. When section 127 merely requires the owner of the property to notify the planning authority to take appropriate steps as are contemplated under section 126 towards acquisition of the property which is reserved for a public purpose, when that provision does not contemplate any decision on the part of the planning authority as to the correctness or otherwise of the notice and merely calls upon it to take appropriate steps, in our considered view, there was no question of quashing and setting aside of the response received by the petitioners

from the planning authority in response to their notice under section 127.

5. Besides, when the petition was dismissed primarily being premature, there was no question of granting any other declaration for deciding any other issue.

6. There is no formal defect or error apparent on the face of record so as to exercise the review jurisdiction.

7. The application is rejected.

[S.G. CHAPALGAONKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/