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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

VASANT
ANANDRAO
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Date: 2023.03.04
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WRIT PETITION NO.12309 OF 2022

Shripad @ Pramod N. Bhonde & Ors.
V/s.

...Petitioners

The State of Maharashtra & Ors.

...Respondents

Mr.Uday B. Nighot for the Petitioners.

Mr.N.K. Rajpurohit, AGP for the State - Respondent Nos.1 and 2.

Mr.Aniruddha A. Garge for the Lonawala Municipal Council –
Respondent No.3.

CORAM : R.D. DHANUKA &
M.M. SATHAYE, JJ.
DATE : 2ND MARCH, 2023.

P.C. :-

1. Rule. Learned AGP waives service for the Respondent Nos.1 and 2. Mr.Garge waives service for the Respondent No.3. By consent of parties, the Petition is heard finally.

2. By this Petition filed under Article 226 of the Constitution of India, the Petitioners are seeking a declaration that the reservation, designation or allotment provided under the development plan and revised development plan of the Respondent No.3 – Lonawala Municipal Council in respect of 1 Hecter, 82 R land from Survey No.39, Hissa No.1 at Lonawala within the jurisdiction of Lonawala

Municipal Council ("the writ land" for short), is lapsed and the same is available to the Petitioners for the purpose of development as they please. The Writ Petition further seeks a declaration that the writ land has been de-reserved under the provisions of the Maharashtra Regional Town Planning Act ("the said Act" for short) as no steps are taken pursuant to the purchase notice issued on the Petitioners on 11th October, 2018.

3. Heard learned counsel for the Petitioners. It is the case of the Petitioners that on 28th February, 1978, in the development plan of Lonawala Municipal Council published and sanctioned by the Respondent No.1, the writ land was reserved for Industrial Housing Complex (Designated Site No.54). In the year 2005, the revised development plan was sanctioned in which the same reservation continued. It is their case that on 6th January, 2015, the Petitioners had given notice to the Respondent No.3 under Section 127 of the said Act, of 12 months, to acquire the writ land and Writ Petition No.2913 of 2017 was filed, which was withdrawn with liberty to give fresh notice. On 11th October, 2018, pursuant to the liberty granted by this Court, the Petitioners again issued fresh notice under section 127 of the said Act to acquire the writ land. It is submitted that the statutory period of 24 months under under Section 127 of the said Act

is already over.

4. Learned counsel for the Petitioners relied upon the Judgments of this Court in Writ Petition (Stamp) No.1497 of 2020 pronounced on 25th September, 2020, and the Judgment passed in Writ Petition No.205 of 2021 dated 9th April, 2021, wherein similar prayer of lapsing of reservation of the adjoining lands of the writ land, has been granted.

5. Heard Mr.Garge, learned counsel for the Municipal Council - Respondent No.3. He invited our attention to the additional affidavit filed by the Respondent No.3 and more particularly paragraph 2 thereof. It is stated therein that after taking the search, no documents with respect to the acquisition of the writ land pursuant to the aforesaid purchase notice dated 11th October, 2018 is found in the records. It is further stated that as per the report of the clerk of meetings, there is no proposal kept regarding acquisition of the writ land in the General Body Meetings held from 11th October, 2018 to 11th October, 2020 and therefore, no resolution has been approved to that effect.

6. He further invited our attention to a letter dated 1st

December, 2022 informing him to submit that there are no documents available showing any acquisition of the writ land.

7. In view of the facts and circumstances narrated above, we are satisfied that the reservation of the writ land has lapsed under the provisions of Section 127 of the MRTP Act.

8. The Writ Petition is accordingly allowed in terms of prayer clauses (b) and (c). Rule is made absolute in above terms. No order as to costs.

(M.M. SATHAYE , J.)

(R.D. DHANUKA, J.)