

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2242 OF 2017

Shri Ajitkumar Hiralal Mehta .Petitioner
Age : 63 yrs, Occu : business,
R/at : 151/1, Railway Line,
Solapur - 413 001.

Vs.

1. The State of Maharashtra .Respondents
2. The Commissioner,
The Municipal Corporation,
Solapur.
3. The Assistant Director, Town Planning,
The Solapur Municipal Corporation
4. The District Collector
Solapur.

Mr. Vikas B. Tapkir, Advocate, for the Petitioner
Mr. A. A. Alaspurkar, AGP, for Respondent Nos. 1 and 4 - State
Mr. P. R. Bhavake i/b. Bhavake & Associates, Advocate, for
Respondent Nos. 2 and 3

**CORAM : A. S. CHANDURKAR AND
M. W. CHANDWANI, JJ.**

DATE : 15 FEBRUARY 2023

ORAL JUDGMENT (PER : A. S. CHANDURKAR, J.)

. Heard.

2. Rule.

3. Rule is made returnable forthwith. With the consent of the parties, the Petition is taken up for final disposal at the stage of admission.

4. The Petitioner claims to be the owner of land bearing Survey No. 359/3, New Survey No. 27/5/1 admeasuring about 86R. From the aforesaid land, an area admeasuring 1327.35 Sq. Mtrs. came to be reserved for shopping complex under the development plan of the city of Solapur. The final development plan for the city of Solapur came to be published on 15.12.2004. The Petitioner on 14.07.2015 issued a notice under Section 127 of the Maharashtra Regional Town Planning Act, 1966 stating therein that no steps for acquiring the said land for the purpose for which it was reserved were taken. In the said notice, however, the description of the property was mentioned as "New Survey No. 25/5/1". The Municipal Corporation vide its reply dated 05.08.2015 indicated that the description of the property had been incorrectly shown as 25/5/1 while there was reference to Survey No. 27/5/1 in the document submitted. The Petitioner was asked to clarify the aforesaid position. The Petitioner, thereafter, on 17.08.2015 clarified that he was owner of Survey

No. 27/5/1 and submitted 7/12 extract, the lay out plan and extract in form 6D. Since no steps have been taken for acquiring the aforesaid land within a period of twenty four months from the issuance of said notice, this Writ Petition seeking a declaration that the reservation in question has lapsed has been filed.

5. We have heard learned counsel for the respective parties. The only objection raised by the Municipal Corporation is to the incorrect description of the subject property in the notice dated 14.07.2015. While the Petitioner claims to be the owner of Survey No. 27/5/1, in the notice dated 14.07.2015, reference has been made to Survey No. 25/5/1. This position has been clarified by the Petitioner pursuant to the Corporation's reply dated 05.08.2015. Alongwith the Petitioner's response dated 17.08.2015, relevant documents in the form of 7/12 extract, lay out plan and form No. 6D were submitted. With the clarification given by the Petitioner, there is no further response from the Municipal Corporation denying the claim of the Petitioner. We, therefore, find that the Petitioner having clarified the matter as required by the Municipal Corporation in it's letter dated 05.08.2015, no further steps were required to be taken by the

Petitioner. It is undisputed that within a period of twenty four months from the receipt of notice under Section 127 of the said Act, no steps towards acquiring of the said land have been taken by the Municipal Corporation. Resultantly, the deeming fiction as contemplated by Section 127(2) would follow and the reservation would lapse.

6. Accordingly, the following order is passed.

O R D E R

(i) It is declared that reservation of 1327.35 Sq. Mtrs. for shopping complex from Survey No. 27/5/1 vide Reservation No. 16/7 stands lapsed for failure to take steps for acquiring the said land in accordance with law;

(ii) The Urban Development Department of the State of Maharashtra shall issue Notification indicating lapsing of such reference within a period of eight weeks from receipt of copy of this order;

(iii) The Petitioner is free to develop the aforesaid land in accordance with the purpose for which the development is permitted for the adjacent land.

7. Rule is made absolute. The Petition is disposed of accordingly.

(M. W. CHANDWANI, J.)

(A. S. CHANDURKAR, J.)