

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

**Writ Petition No. 3203 of 2022**

Shubhangini D/o Devidas Dhole @  
Shubhangi W/o Vijay Thosar,  
Aged – 55 years, Occ. Housewife,  
R/o. 1/7, MIG-72, VHB Colony,  
Gorakshan Road, Akola.

.... Petitioner

**..VERSUS..**

- (1) State of Maharashtra, through its  
secretary, Urban Development  
Department, Mantralay,  
Mumbai 443001, through  
its secretary.
- (2) Nagpur Municipal Corporation,  
Nagpur, through its Commissioner,  
Tq. and Dist. Nagpur, Maharashtra.
- (3) Nagpur Improvement Trust, through  
its Chairman, Town Planning Department,  
Nagpur, Tq. and Dist. Nagpur.
- (4) Assistant Director, Town Planning  
Department, Nagpur Municipal  
Corporation, Nagpur, office at  
Chhatrapati Shivaji Maharaj  
Administrative Building B and C Wing,  
Mahanagarpalika Road, Civil Lines,  
Tq and Dist. Nagpur.
- (5) Assistant Director, Town Planning  
Department, Nagpur Improvement  
Trust, Sanskritik Bhavan, 3<sup>rd</sup> Floor,  
near NIT Swimming pool, North  
Ambazari Road, Nagpur  
Tq and Dist. Nagpur.

.... Respondents

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Mr. P. U. Kavishwar, Advocate for the petitioner  
Mr. N. S. Rao, A.G.P. for respondent 1  
Mr. A. R. Sambre, Advocate for respondent 2 and 4  
Mr. Pranav Deshmukh, Advocate h/f Mr. K. P. Mahalle, Advocate for  
respondent 3  
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**CORAM : ROHIT B. DEO AND**  
**Y. G. KHOBRAGADE, JJ.**

**DATED : 2-2-2023**

**ORAL JUDGMENT : (Per : Rohit B. Deo, J.)**

Heard.

2. Rule. Rule made returnable forthwith. Heard finally with  
consent of learned counsel appearing for the parties.

3. The petitioner is seeking the following substantive relief.

*“(A) Declare that the said land of the petitioner at Mauje Dabha, Pa. Ha. No. 7, plot no. 2, arising out of field no 119/5, 119/8, 119/11, admeasuring 4890 Sq. fts. falling under Nagpur Improvement Trust and Nagpur Municipal Corporation, Tq. And Dist. Nagpur which is reserved under “Green Belt Control Scheme” for the purposes of hospital, EP-28 under Burial ground (MNW-58) vide reservation in Part Plan of Sanctioned Development Plan of the Nagpur city entirely sanctioned vide notification dated 10/09/2001, stands lapsed u/s 127 of the Maharashtra Regional Town & Planning Act, 1966 and further it be declared that the petitioner is free to develop and /or dispose of the said land.”*

4. The petitioner contends that Plot 2 admeasuring 4890 Sq. fts. is reserved under the “Green Belt Control Scheme” for the purposes of hospital, EP-28 and burial ground in the revised development plan of Nagpur City sanctioned vide notification dated 10-9-2001. According to the petitioner, he preferred an application seeking regularization of the said Plot 2, which the Building Engineer of respondent 3, Nagpur Improvement Trust rejected on the ground that the plot is affected by D.P. reservation.

5. The petitioner issued notice dated 8-10-2018 to the respondents including the planning authority calling upon the planning authority to initiate steps for the acquisition of said Plot 2 within the statutorily prescribed period of 24 months. The issuance of the notice and the receipt thereof by the planning authority is not in dispute.

6. We have perused the affidavit in response filed on behalf of the planning authority. We may extract the relevant averments.

*“2. It is most humbly and respectfully submitted that the answering Respondent after receipt of notice dated 08/10/2018 has taken up the issue of acquisition of the suit land in the General Body of the Respondent Municipal Corporation and on a resolution is passed by the General Body that the Suit land is very much required of the Development for the City of Nagpur for which the land is reserved in the development plan as per the notification dated*

*10/09/2001. A copy of the resolution of General Body dated is annexed herewith and marked as ANNEXURE NO. for the kind perusal of this Hon'ble Court.*

*3) It is most humbly and respectfully submitted that the answering Respondent has to incur huge expenses for maintenance and development of the city and for the purpose of acquisition of the suit land an amount of Rs. 1 crore is estimated hence on 30/05/2019 a proposal is submitted to the Government for release fund of Rs. 12 crores. A copy of the proposal is annexed herewith and marked as ANNEXURE NO. 1 for the kind perusal of this Hon'ble Court.*

*4. It is most humbly and respectfully submitted that the answering Respondent is persuading the Government for releasing the amount for the acquisition of the above-said land. It is therefore submitted that the answering respondents have taken all necessary effective steps within 2 years from the date of receipt of the notice dated 08/10/2018.*

*5) It is further most humbly and respectfully submitted that because of the National Lockdown due to the Covid-19 pandemic, the Respondent could not take further steps in the matter. So also, the Hon'ble Apex Court has also extended the period of limitation for filing appeals considering the Covid-19 pandemic. Under such circumstances, it is most humbly submitted that the answering Respondent has taken necessary steps for the acquisition of the above-said suit land, and hence, the petition is liable to be rejected."*

7. It is clear that no step is taken of acquisition of the land. We need not burden the order by referring to the plethora of decisions which articulate and explain the scope and ambit of the expression "steps of acquisition". In the factual matrix, we are satisfied that the reservation has

lapsed. We therefore, allow the petition by directing the respondents to issue notification of lapsing under Section 127(2) of the Maharashtra Regional and Town Planning Act, 1966 and further declare that the petitioner shall be entitled to use the subject plot in accordance with the user permissible for the adjacent plot/land.

8. The petition is disposed of.

(Y. G. Khobragade, J.)

(Rohit B. Deo, J.)

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