



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

WRIT PETITION NO. 5056 of 2023

Prasenjit Kisanrao Tayade (Patil)
Age 57 years, Occupation-Business,
At Post Madakhed(Bujruk),
Tq. Jalgaon (Jamod), District Buldhana. **PETITIONER**

..V E R S U S..

1. The State of Maharashtra through the Secretary,
Urban Development Department,
Mantralaya, Mumbai-32.
2. The Director of Town Planning,
State of Maharashtra, Central Building,
Pune-1.
3. The Municipal Council (M.C.)/Nagar Parishad,
Jalgaon Jamod, through its Chief Officer,
Jalgaon-Jamod, District Buldhana.
4. Assistant Director of Town Planner,
Buldhana, Government Administrative Building,
In front of Bus Stand, Buldhana. **RESPONDENTS**

Shri G.K.Mundhada, Advocate for petitioner.
Shri S.A.Ashirgade, Additional Government Pleader for respondent nos.1, 2
and 4.
Shri Mangesh Bute, Advocate for respondent no.3.

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE :- 14th SEPTEMBER, 2023

ORAL JUDGMENT (Per A.S.CHANDURKAR, J.)

Rule. Rule made returnable forthwith and heard the learned
counsel for the parties.

2. The petitioner is the owner of land bearing Survey No.9, admeasuring 0.28 HR of Village Khel Amanat, Tq. Jalgaon (Jamod), District Buldhana. The aforesaid land was shown to be reserved for shopping centre pursuant to Reservation No.44. The development plan was published on 15.01.2006. On 17.12.2020 the petitioner issued a notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short, the Act of 1966) calling upon the Municipal Council to purchase the aforesaid land. In reply the Municipal Council on 12.07.2021 offered transferable development rights to the petitioner in lieu of compensation. On the expiry of period of twenty-four months from the service of the said notice, the petitioner has filed the present writ petition seeking a declaration that the reservation has lapsed under Section 127 of the Act of 1966.

3. Heard the learned counsel for the parties and perused the documents filed alongwith the writ petition as well as the reply. The factual aspects of land being subjected to reservation, service of purchase notice, its receipt and reply by the Municipal Council are not in dispute. In the reply the Municipal Council has sought to offer transferable development rights in lieu of monetary compensation to the petitioner. The Full Bench in *Shree Vinayak Builders & Developers vs. State of Maharashtra, Nagpur Municipal Corporation, Urban Town Planning Department [2022(4) Mh.L.J.739]* has held that offer of transferable development rights in lieu of compensation

would not be permissible and the land owner cannot be compelled to accept the transferable development rights in lieu of compensation. It is thus clear that after the expiry of period of twenty-four months from the receipt of notice dated 21.12.2020, no step towards acquisition of the petitioner's land has been initiated. Consequently, the deeming fiction under Section 127(1) of the Act of 1966 would operate.

4. For aforesaid reasons, it is declared that Reservation No. 44 affecting the land of the petitioner to the extent of 0.28 HR of Survey No.9 of village Khel Amanat Tq. Jalgaon (Jamod), District Buldhana is deemed to have lapsed under Section 127(1) of the Act of 1966. The respondent no.2-The Director of Town Planning, Pune, shall within a period of six weeks of receiving the copy of this judgment issue Notification indicating lapsing of the aforesaid reservation. The petitioner is free to develop the land in the manner permissible for the adjoining land as per the development plan.

5. Rule is made absolute in aforesaid terms with no order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar..