

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

WRIT PETITION NO.155 OF 2019

Jagjivan Motiram Wasnik, Vidyanagar, Bramhapuri, Dist. Chandrapur
-vs-

The State of Maharashtra, Thr. Principal Secretary, Urban Development Dept.(1), Mantralaya,
Mumbai and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri A. B. Moon, Advocate for petitioner.
Ms N. P. Mehta, Assistant Government Pleader for respondent Nos.1
and 3.
Shri V. D. Raut, Advocate h/f Shri R. J. Kankale, Advocate for
respondent No.2.

CORAM : A. S. CHANDURKAR AND MRS VRUSHALI V. JOSHI, JJ.
DATE : January 11, 2023

P.C.

Leave to correct the description of respondent No.3. The
correction be carried out forthwith.

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

The petitioner is the owner of Survey No.33 at Mouza
Delanwadi within the limits of Municipal Council Brahmapuri,
District Chandrapur. In the development plan for the city of
Brahmapuri the said land was shown to be affected by
reservation at Sr.No.54 to the extent of 0.47R. The reservation
was for provision of staff quarters of Government Polytechnic as
well as 30 meters road. Since the said land was not acquired

for the purpose for which it was reserved, the petitioner on 02/11/2015 issued two notices under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short, the Act of 1966). These notices were received by the Municipal Council on the same day. Despite issuance of these notices, no steps for acquiring the same came to be taken within a period of twenty four months. The petitioner has sought a declaration that the reservation in question has lapsed.

2. We have heard the learned counsel for the parties and we have perused the documents on record. Insofar as the Municipal Council is concerned, it has admitted in paragraph 2 of its reply that it was served with the notices issued under Section 127 of the Act of 1966. Thereafter no steps have been shown to be taken as required under Section 127 of the said Act to acquire the said land. Insofar as the reply of respondent No.1 is concerned, it has been clearly stated in paragraph 3 of affidavit dated 05/02/2021 that there is no requirement for additional land for the Government Polytechnic, Brahmapuri. In the light of the aforesaid position on record it becomes clear that despite issuance of notice under Section 127(1) of the Act of 1966, no steps for acquiring the said land for the purpose for

which it was reserved have been shown to be taken by the respondents. Consequently the provisions of Section 127(1) would apply. Hence for aforesaid reasons the following order is passed :

- (i) It is declared that reservation No.54 to the extent of 0.47R bearing Survey No.33 Mouza Delanwadi at Municipal Council Bramhapuri has lapsed under Section 127(1) of the Maharashtra Regional and Town Planning Act, 1966.
- (ii) The respondent No.1 within a period of six weeks of receiving copy of this order issue notification indicating lapsing of aforesaid reservation.
- (iii) The petitioner is free to develop the said land in the manner permissible under the development plan for the adjoining land.

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

(Mrs Vrushali V. Joshi, J.)

(A. S. Chandurkar, J.)