



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

WRIT PETITION NO.8709/2018

Purushottam Balkrishna Bhivapurkar,
age 72 Yrs., Occ. Retired Teacher,
R/o Jogikhana Peth, Umred Dist.
Nagpur.

... Petitioner

- Versus -

1. The State of Maharashtra,
through the Secretary Urban Development
Department, Mantralaya, Mumbai.
2. Union of India,
through General Manager,
Central Railway, Bombay C.S.T.
Bombay.
3. Union of India, through Divisional
Railway Central Railway, Manager,
Kingsway, Near Railway Station,
Nagpur.
4. Assistant Director of Town Planning,
Government Administrative Building
No.1, 2nd Floor, Civil Lines, Nagpur
440 001.
5. The Collector Nagpur, Civil Lines,
Nagpur, Dist. Nagpur.

6. Divisional Railway Manager, South East Central Railway, Kingsway, Near Railway Station, Nagpur.
7. General Manager, South East Central Railway, Headquarters, Public Relations Office, Ground Floor, Block "B", GMC Office, SECR, Bilaspur, Pin 495 004.
8. Senior Manager (Land Acquisition), Maharashtra Rail Infrastructure Development Corporation Ltd., 3rd Floor, Girish Heights, LIC Square, Kamathi Road, Nagpur
Email:ngp.land@maharail.com ... Respondents

Mr. G.K. Mundhada, Advocate for the Petitioner.

Ms. P.T. Joshi, Assistant Government Pleader for Respondent Nos.1, 4 and 5.

Ms. Mugdha R. Chandurkar, Advocate for Respondent Nos.2, 3, 6 and 7.

Mr. M.V. Bute, Advocate for Respondent No.8.

**CORAM :- SMT. ANUJA PRABHUDESAI &
MRS. VRUSHALI V. JOSHI, JJ.**

DATED :- 07.12.2023

ORAL JUDGMENT (Per Mrs. Vrushali V. Joshi, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent.

2. By this petition the petitioner is seeking relief of declaration that the reservation on the land owned by him stands lapsed under Section 127 of the Maharashtra Regional Town Planning Act, 1966.

3. The petitioner is the owner of the land under Survey No.223/1 having total area admeasuring 2 H 21 R and Survey No.212/1 total area 7 H 56 R of village Parsodi (U.M.), Taluka Umred, District Nagpur. In regional development plan of Nagpur the above said land of the petitioner has been reserved for railway broad-gauge by the respondents. It is submitted that though the said land of the petitioner has been reserved for the said purpose the respondents have not taken any steps for acquisition. The petitioner had sent a purchase notice through his counsel, by speed post on 21.7.2015 under Section 127 of the M.R.T.P. Act and requested the respondents to acquire the land within the statutory period of twelve months from the date of service of notice. Notice was duly served on 24.7.2015. Again

purchase notice was sent by the counsel for the petitioner through speed post on 10.7.2019 which was received on 11.7.2019. The copy of the said notice was also sent to the Chief Officer, Municipal Council / Nagar Parishad, Umred. After receipt of the said notice, said Authority had informed the counsel for the petitioner that the said land is outside the limits of Umred City and is forming part of regional plan of Nagpur Municipal Council and it has no role in acquisition of said land.

4. In pursuance of purchase notice, the petitioner was informed that respondent Nos.2 and 3 have not forwarded the proposal to the Collector, Nagpur i.e. respondent No.5 as they do not want to commence the acquisition proceedings in respect of said land. The counsel for the petitioner made enquiry in the office of respondent No.5 and came to know that no proposal for acquisition was received from respondent Nos.2 and 3 hence the declaration under Section 126 (2) and (4) of the Land Acquisition Act, 1894 or under Section 19 of the Right to Fair Compensation

and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has not been published till date.

5. The petitioner submits that the steps required to initiate for land acquisition proceedings under the M.R.T.P. Act is the publication of declaration under Section 126(2) of the said Act. No such declaration has been published and the period of 12 months as contemplated by Section 127 of the M.R.T.P. Act which is to be reckoned from the date of service of notice dated 24.7.2015 came to an end on 23.7.2016 and thus reservation of the above said land stands lapsed.

6. As per the reply of respondent No.5, after seeking report from M.I.D.C., Nagpur in which it has been stated that the land in question is situated at a distance of 1 Kilometre from the boundary of M.I.D.C. and the same is not abutting and therefore there is no proposal for consideration regarding the acquisition of the land for broad-gauge as shown in the regional plan. As there

was no proposal for acquisition of land of the petitioner in development plan no proposal has been forwarded as a result of which no notification under Section 127(1) of the M.R.T.P. Act and under Section 19 of New Acquisition Act, 2013 has been issued till this date and hence the land of the petitioner is to be released from the reservation of broad-gauge railway line of regional plan of Nagpur which is affecting the land of the petitioner.

7. It is apparent from the statement made in the affidavit in reply filed on behalf of the respondent No.4 that the reservation of the land of petitioner has lapsed in view of the provisions of Section 127(1) of the Act inasmuch as the land was not acquired by the respondents within 10 years from the date of the revised development plan and effective steps were not taken by the respondents and the land is not required for the purpose for which it was acquired.

8. It appears that the declaration in respect of deemed lapsing of reservation have been satisfied in the case of the petitioner since the government has stated that there is no question of acquiring the land of the petitioner for the said purpose.

9. For the above-said reasons the writ petition is allowed.

10. It is hereby declared that the reservation for broad-gauge railway line in regional plan of Nagpur of Survey No.223/1 total area 2 H 21 R and Survey No.212/1 total area admeasuring 7 H 56 R of village Parsodi, Taluka Umred, District Nagpur in the regional plan has been lapsed under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 and the petitioner is free to develop the said land as is permissible for the adjacent land as per the relevant development plan.

The respondents are directed to issue notification under Section 127(2) of the M.R.T.P. Act, 1966 in respect of the land owned by the petitioner within a period of three months from the date of this judgment.

11. Rule is made absolute in the aforesaid terms. There shall be no orders as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(SMT. ANUJA PRABHUDESAI, J.)