



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

902 WRIT PETITION NO. 6790 OF 2023

SHRI SANGMESHWAR CHARITABLE TRUST,
LATUR.

Through its President-
Umakant s/o. Virappa Honrao,
Age: 65 Years, Occupation: Business,
Resident of - at post- House No. 22/23,
Vrandawan Park, Behind New Bus Stand,
Muktai Nagar, Latur, District – Latur.

...PETITIONER

-VERSUS-

1. THE STATE OF MAHARASHTRA.

Through it's Secretary-
Urban Development Department,
Mantralaya, Mumbai – 400020.

2. The Assistant Director of Town Planning,
Municipal Corporation, Latur, District Latur.

3. The Commissioner,
Latur City Municipal Corporation, Latur,
District Latur.

...RESPONDENTS

...
Ms.Priyanka P. Shinde, Advocate for the Petitioner.
Shri M.M. Nerlikar, AGP for Respondent No.1/State.
Shri Suhas P. Urgunde, Advocate for Respondent Nos.2 and 3.

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**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.**

DATE :- 20th August, 2024

ORAL JUDGMENT (Per Ravindra V. Ghuge, J.) :-

1. Rule. Rule is made returnable forthwith and heard finally by the consent of the parties.

2. The Petitioner has put forth prayer clauses B, C and D as under:-

“B] Be pleased to quash and set-aside the Reservation Site No.304 in the Development Plan of Latur Municipal Corporation published on 02.01.2002 which came into force with effect from 18.02.2002 whereby the land / property situated within the limits of Municipal Corporation Latur bearing City Survey No.220 to the extent of land admeasuring 27.45 R. belonging to the petitioner-Trust is reserved for Garden, in the interest of justice;

C] This Hon'ble High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or direction or order, as the case may be, thereby holding and declaring that the petitioner-Trust's land / property designated / specified / reserved for the Garden under the Reservation Site No.304 situated within the limits of Municipal Corporation Latur bearing City Survey No.220 to the extent of land admeasuring 27.45 R. has lapsed from said reservation, allotment or designation and have become available to the petitioner- Trust for the purpose of its own use and/or development, in the interest of justice;

D] This Hon'ble High Court may be pleased to issue Writ of Mandamus or any other appropriate writ, direction or order directing the respondent No.1- State to forthwith notify

the lapsing of reservation of said lands / property by an order published in the Official Gazette as required under Section 127 (2) of the MRTP Act, 1966, in the interest of justice;”

3. The facts emerging from the record are undisputed. The Development Plan with regard to the reservation site No.304, was published on 02.01.2002 and was brought into effect from 18.02.2002. The property bearing City Survey No.220 admeasuring 27.45 R belonged to the Petitioner Trust. The reservation was for a garden. The first purchase notice dated 09.03.2018, is disputed by the Municipal Corporation. The second purchase notice is dated 17.08.2022. The Municipal Corporation has taken the stand that the first notice dated 09.03.2018, is not traceable. However, we find from the inward stamp on the said notice that it was received on 09.03.2018, by the Latur City Municipal Corporation.

4. The Municipal Corporation has raised an objection that the notice was not accompanied by the documents as are required under sub-section (1) of Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short, ‘the MRTP Act’). However, we find from the record as well as the affidavit

in reply of the Municipal Corporation that it does not deny or contradict the title and interest of the Petitioner in the said property. In fact, the Municipal Corporation has conveyed to the Petitioner, vide the communication dated 27.01.2022, that the application dated 30.11.2021, filed by the Petitioner for seeking permission to prepare a layout, is rejected since the land is under reservation.

5. This would indicate that the Municipal Corporation has not questioned the title or interest of the Petitioner in the said property. Had it been the case, the Municipal Corporation would have first raised an objection as against the application of the Petitioner dated 30.11.2021, that the Petitioner should first establish it's title and interest in the property. This crystallizes the position that the Petitioner's right, title and interest in the property has not been questioned by the Municipal Corporation.

6. Since the Municipal Corporation was not taking any stand on the first purchase notice of the Petitioner dated 09.03.2018, in which, the Petitioner has declared that it will not accept the offer of TDR, the Petitioner once again issued the

notice on 09.08.2022, which was served upon the Municipal Corporation on 17.08.2022.

7. In view of the above, we find that the purchase notice dated 09.03.2018, was received by the Municipal Corporation and the right, title and interest of the Petitioner was not contradicted or questioned.

8. In view of the above, **this Writ Petition is allowed in terms of prayer clause C.** The reservation stands lapsed. The Petitioner shall tender requisite measurement map/documents to the Municipal Corporation with regard to the portion of the land which belongs to the Petitioner, within 15 days from today. The Municipal Corporation shall issue a communication to Respondent No.1 that the reservation has lapsed, within 45 days. Thereafter, Respondent No.1 shall issue a notification under Section 127(2) of the MRTP Act, within a period of 60 days.

9. In the event, the Model Code of Conduct is introduced, the same shall not be an impediment for the Municipal Corporation or Respondent No.1, in implementing the

directions of this Court.

10. Rule is made absolute in the above terms.

kps

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)