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

1084 WRIT PETITION NO. 14262 OF 2023

**MURLIDHAR VITHAL HAJARE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
SECRETARY AND OTHERS**

....

Mr G. K. Mundhada a/w Mr P. S. Mantri, Advocates for
Petitioners;

Mr S. R. Yadav Lonikar, A.G.P. for Respondent No.1/State

Mr A. B. Kadethankar, Advocate for Respondent No.2

Mr N. N. Desale, Advocate for Respondent No.4

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

DATE : 16th July, 2024

PER COURT:

1. By this Writ Petition, the Petitioners pray that the acquisition by the Appropriate Authority, which is Respondent No.3/Maharashtra Housing Administrative Development Authority (MHADA), has lapsed. The Petitioner has put forth prayer clause (A), as under :-

“A. Declare that as no proposal for acquisition for issuance of notification u/s 126 of MRTP Act read with Section 19 of The Right To Fair Compensation And

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Transparency In Land Acquisition Rehabilitation, Resettlement Act, 2013, to The Collector Dhule in spite of orders of directions u/s 49/4 of MRTP act of confirmation of purchase notice within a period of twelve months (12) from the date of confirmation by Secretary Urban Development Department, Mantralaya, Mumbai (Respondent no.1) to MHADA i.e. respondent no.3 reservation for the purpose of MHADA vide reservation no. 200 & 201 of land owned by the petitioners of Survey no. 519/2/A area admeasuring 1.00HR of Village Dhule, Tq. Dhule, Dist Dhule has lapsed under sub-section (7) of section 49 of the Maharashtra Regional and Town planning Act, 1966 and that the petitioners are free to develop the land owned by them in the manner permissible to adjacent land as per Development Plan.”

2. We have considered the submissions of the learned Counsel for the respective sides and have perused the Petition paper-book. There is no dispute as regards the factual position, which is as under :-

Particular of incidence	Date
Purchase notice u/s 49 served on Respondent no. 1 to 4.	31.01.2022
Hearing before Respondent no. 1 in which respondent no. 2, 3 & 4 were present. Respondent no. 3 submitted that the said land is not viable for the project of Gharkul scheme.	14.07.2022
Order of confirmation under sub-section 4 section 49 passed by respondent no.1 by which Respondent no. 3 was directed to	18.07.2022

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forward the proposal to The Collector Dhule to commence the acquisition of said land with the statutory period of 12 months from confirmation of said notice.	
Last Date for Proposal for sending proposal of Acquisition u/s 19 The Act of 2013	17.07.2023
The position of law which emerges : As per Section 49 where a purchase notice has been served and is confirmed within the period specified, the appropriate authority must make an application to acquire the land within one year from the date of confirmation of the notice. If it does not do so, the reservation, designation, etc. shall be deemed to have lapsed.	

3. The learned Advocate for the Respondent/MHADA relies upon the affidavit-in-reply filed through Shri. Vihar Ashok Bodke, dated 13/06/2024, and makes it abundantly clear from paragraph Nos.2, 3 and 5 that, the acquisition of the land which was proposed under Section 126 of the Maharashtra Regional and Town Planning Act, 1966 (for short 'MRTP Act'), is not feasible. Considering the Ready Reckoner rates of 2023-24 and the costs of the acquisition and development, the Authority found that the land was not feasible. Hence, no proposal under Section 126 of the MRTP Act was forwarded by the MHADA to the State Government.

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4. In view of the above, **this Writ Petition is allowed**, considering that the reservation has lapsed in view of the statement made in the affidavit and the law applicable.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

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