



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

WRIT PETITION NO. 947 OF 2024

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| <p>1. Roshni Prashant Rebhankar
Age about 40 years,
Occupation : Household work,
R/o Near Gurudwara, Tukum Road,
Chandrapur District : Chandrapur</p> <p>2. Ranveer Kaur Charanjeet Singh
Wadhwa,
Age about 45 years,
Occupation : Household work,
R/o Bapat Nagar, Chandrapur
District : Chandrapur Pin 442401</p> | } | .. Petitioners |
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Versus

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| <p>1. The State of Maharashtra through the
Secretary Urban Development,
Department, Mantralaya, Mumbai 32</p> <p>2. The Municipal Corporation, Chandrapur,
through its Commissioner, Chandrapur,
District : Chandrapur</p> | } | .. Respondents |
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Ms.Manjusha N. Dongre, Advocate h/f Mr.G.K.Mundhada Advocate
for petitioners.

Ms. N.P. Mehta, Additional Government Pleader for respondents.

**CORAM : NITIN W. SAMBRE &
ABHAY J. MANTRI, JJ.**

DATED : 28/08/2024

ORAL JUDGMENT (Per : Abhay J. Mantri, J.)

Rule. Rule is made returnable forthwith. Heard finally, with
the consent of the learned counsel appearing for the parties.

(2) By this petition, the petitioners are seeking relief of declaration that the reservation about the lands owned by them bearing Survey No.98/1/A admeasuring 0.576 HR, i.e. 576 Square Meters each respectively total area admeasuring 0.11.52 HR, i.e. 1152 Square meter (hereinafter referred to as "**the lands**") of village Wadgaon, Tahsil and District Chandrapur for the purpose of playground vide reservation No.12 have lapsed under Section 127 of the Maharashtra Regional Town Planning Act, 1966 (hereinafter referred to as "**the MRTTP Act**").

(3) The respondents vide notification No.TPS-2294/1315/case no.253/96/nV-9 dated 02/06/1997 sanctioned and published a revised development plan and the said notification came into force with effect from 15/08/1997, wherein they have shown the lands of the petitioners are reserved for the purpose of playground vide reservation No.12. Since no steps for acquisition of the said lands have been initiated by the respondent No.2 Municipal Corporation, Chandrapur till January 2022, therefore, the petitioners on 02/02/2022 issued purchase notice under Section 127 of the MRTTP Act to respondent No.2, thereby called upon the respondent No.2 to acquire the lands which are affected by the reservation within statutory period from the date of service of the notice. On receipt of the said notice, respondent No.2 conducted a spot inspection and found that houses

were constructed on 95% portion of the reserved lands. Therefore, vide resolution No.65 dated 27/06/2023, respondent No.2 resolved that no requisite space is left for developing a playground. It would be impossible for them to develop the playground on the lands in question. However, no steps for acquiring the said lands have been initiated, hence this petition.

(4) Respondent No.2, by filing a reply, has not disputed the facts stated by the petitioners; however, it urges the dismissal of the petition.

(5) Ms. Manjusha Dongre, learned Counsel for the petitioners, vehemently contended that despite service of the purchase notice on respondent No.2, neither it has acquired the lands in question within the statutory period of two years nor taken any steps as contemplated under Section 126 of the MRTP Act. The statutory period of two years has been completed on 01/02/2024. The resolution passed by respondent No.2 shows that no requisite space is left for developing a playground. Therefore, they are not willing to acquire the said lands. Hence, he has urged for allowing the petition.

(6) As against above, the learned Assistant Government Pleader, having considered the facts of the case, submitted that the Court may pass an appropriate order.

(7) On perusal of the record, it reveals that the petitioners are the owners of the lands in question. Vide notification dated 02/06/1997, respondent No.2 sanctioned and reserved the said lands for the purpose of playground vide reservation No.12. However, till January 2022, respondent No.2 failed to acquire the said lands. Therefore, the petitioners issued a purchase notice to respondent No.2 on 02/02/2022, which was served on them on the same day. Despite service of the said notice, respondent No.2 failed to acquire the lands in question.

(8) Respondent No.2 inspected the lands along with adjacent lands. They found that people have constructed houses on 95% of the reserved lands; therefore, vide resolution No.65 dated 27/06/2023, they resolved that it would be impossible to develop the playground as sanctioned. The resolution itself shows that respondent No.2 is not willing to acquire the said lands.

(9) Thus, considering the above discussion, it is evident that despite the service of purchase notice under Section 127 of the MRTP Act, the respondents failed to comply with or acquire the lands in question. On the contrary, it seems that they are not willing to develop Playground on the reserve land in question. Hence, in our opinion, the petitioners are entitled to seek the relief of declaration as prayed.

Consequently, we deem it appropriate to pass the following order :-

ORDER

- A) The Writ Petition is allowed.
- B) It is hereby declared that reservation No.12 affecting the lands of the petitioners has lapsed under Section 127 of the MRTTP Act.
- C) Respondent No.1 is directed to issue a notification indicating the lapsing of the reservation within eight weeks from the production of copy of this order.
- D) Needless to clarify that, on the issuance of notification, the petitioners are free to develop the lands in accordance with the purpose for which the development of the adjoining lands is permissible.

(10) Rule is made absolute in the above terms. No order as to costs.

[ABHAY J. MANTRI, J.]

[NITIN W. SAMBRE, J.]

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