



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

WRIT PETITION NO. 1983 OF 2024

Nine Star Multiservices Pvt. Ltd. through
 its Director Shankar Gokulprasad Agrawal
 Age – 45 years R/o Civil Lines, Chandrapur
 Tq & Dist. Chandrapur

.. **Petitioner**

Versus

1. The State of Maharashtra
 through the Secretary, Urban Development
 Department, State of Maharashtra,
 Mantralaya, Mumbai
2. The Maharashtra Housing and Area
 Development Authority (MHADA), through
 its Chief Officer, Civil Line, Temple Road,
 Rajarani Chowk, Near Aamdar Nivas,
 Nagpur

.. **Respondents**

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

Mr. N.S.Rao, Assistant Government Pleader for respondent No.1.

Mr. A.R.Fule, Advocate for respondent No.2.

CORAM : BHARATI DANGRE AND
ABHAY J. MANTRI, JJ.

DATED : 25/09/2024

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) The petitioner is seeking relief of declaration of lapsing of
 Reservation Nos.68 (Shopping Centre), 69 (Cultural Centre & Library),

and 70 (Primary School) affecting the lands bearing Survey Nos.105/1 and 105/2, 108/3A, and 110/2A, respective area of which are mentioned in the petition, of Village Khutala Tq. and District Chandrapur (hereinafter referred to as the '*said land*'), and it is free to develop the lands in the manner permissible to the adjacent lands as per the Regional Development Plan of Chandrapur.

(3) The respondent No.1 vide notification No.TPS-2294/471/CR-159/UD-9 dated 30/06/1998 has reserved the piece of the lands for the Shopping Centre, Cultural Centre and Library, and Primary School vide reservation Nos.68, 69 and 70, respectively, which came into force after its sanction on 01/09/1998. Despite said notification, respondent No.2 failed to acquire the said lands till December 2020. Therefore, the petitioner, on 01/01/2021, issued a purchase notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as the "*M.R.T.P. Act*") to respondent No.2, thereby calling upon them to acquire the said lands which are affected by the reservation Nos.68, 69 and 70 respectively within the statutory period of two years from the date of service of the notice. Despite the service of the said notice, respondent No.2 failed to comply or acquire the lands in question within the statutory period of two years. Hence, this petition.

(4) Respondent No.2 filed a reply, but it has not disputed the

facts stated by the petitioner. However, it is averred that it could not initiate the acquisition process or compensate the Petitioner because the funds were not received to acquire lands. Hence, it urges to dismiss the petition.

(5) Mr. Mundhada, learned Counsel for the petitioner, vehemently contended that despite service of the purchase notice, respondent No.2 has not complied with the notice nor acquired the lands in question within the statutory period of two years, which was completed on 31/12/2022. He has drawn our attention to the averment in the reply, which depicts that due to the non-receipt of the funds for acquisition, it was unable to acquire the said lands. Hence, he urged the petition to be allowed.

(6) As against above, Mr. Rao, the learned Assistant Government Pleader, submitted that MHADA could not respond to the petitioner's notice within the statutory period due to the non-receipt of funds from the Government. The act was neither deliberate nor willful negligence on the part of respondent No.2, but it could not comply due to financial constraints. Therefore, the petitioner is not entitled to the relief as claimed. Hence, he urged for the dismissal of the petition.

(7) We have appreciated the rival submissions of the parties and perused the record.

(8) It is apparent that the petitioner is the owner of the lands in question. Vide notification dated 30/06/1998, respondent No.1 sanctioned and reserved the pieces of the lands for the Shopping Centre, Cultural Center & Library, and Primary School vide reservations Nos.68, 69 and 70, respectively. However, till December 2022, respondent No.2 failed to acquire the said lands. Therefore, the petitioner issued a purchase notice to respondent No.2 on 01/01/2021, which was served on them. Despite service of the said notice, respondent No.2 failed to comply with the same or acquire the pieces of the lands in question. It is pertinent to note that respondent No.2 has not disputed the above facts. However, it is averred that due to the non-receipt of funds from the government, MHADA could not acquire the lands, or it was unable to initiate the acquisition proceedings within the statutory period. The averment shows that respondent No.2 failed to comply with the notice.

(9) Thus, considering the above discussion, it is evident that despite the service of purchase notice under Section 127 of the M.R.T.P. Act, the respondents failed to comply with said notice or acquire the pieces of the lands in question. On the contrary, it seems that they are unable to initiate the acquisition proceedings due to financial constraints. Hence, in our opinion, the petitioner is entitled to the relief as claimed.

(10) As such, the petition is allowed in terms of prayer clauses (A) and (B).

[ABHAY J. MANTRI, J.]

[BHARATI DANGRE J.]

KOLHE