



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

WRIT PETITION NO.3209 OF 2019

Sundarlal s/o Balkisandasji Kalantri, Age
85 years, Occ.: Nil, R/o Near Vitthal
Mandir, Balaji Ward, Bramhapuri, Tq.
Bramhapuri, Dist. Chandrapur.

LR's of sole petitioner (1 to 6) are
brought on record vide Court's order
dated 18.10.2022

1. Jagdish s/o Sundarlal Kalantri, Occ : Nil,
Aged about 63 years.
2. Prakash s/o Sundarlal Kalantri, Occ :
Handicapped, Aged about 58 years,
3. Ashok s/o Sundarlal Kalantri, Occ.
Business, Aged about 56 years,
4. Kunjbihari s/o Sundarlal Kalantri, Occ.
Business, Aged about 54 years.
5. Manohar s/o Sundarlal Kalantri, Occ.
Business, aged about 52 years.
6. Kusum @ Kiran Nandkishor Rathi, Occ.
Household, aged about 60 years,

All R/o Near Vitthal Mandir, Balaji Ward,
Bramhapuri, Tq. Bramhapuri, Dist.
Chandrapur.

... PETITIONERS

VERSUS

1. The State of Maharashtra, through

the Secretary, Urban Development
Department, Mantralaya, Mumbai.

2. Director of Town Planning and
Valuation Department, Central
Building, Pune – 411 001
3. The Municipal Council (M.C)/ Nagar
Parishad, Bramhapuri, through its
Chief Officer, Bramhapuri, Dist.
Chandrapur.
4. The Town Planer Chandrapur, Office
of Town Planning and Valuation,
Branch Office, Prashasakiya Building,
Second floor, Room No.23,
Chandrapur, Pin 442101
5. The Collector, Chandrapur, through
Sub-Divisional Officer/ Assistant
Collector Bramhapuri, acting as
Special Land Acquisition Officer,
Tahsil Office Bramhapuri, Tq.
Bramhapuri & Dist. Chandrapur, Pin.
442 101

... RESPONDENTS

Shri G.K. Mundhada, Advocate for the petitioners.
Shri Fulzele, Assistant Government Pleader for the State.
Shri R.J. Kamkale, Advocate for respondent no.3.

CORAM : VINAY JOSHI AND SMT. M.S. JAWALKAR, JJ.
DATE : 18.07.2024.

JUDGMENT : (Per : Vinay Joshi, J.)

Heard. **RULE.** Rule is made returnable forthwith.

2. The matter is taken up for final disposal by consent of the parties.

3. The petitioner are the joint owners and possessor of land bearing Survey No.546 area ad-measuring 0.08 HR situated at Village Bramhapuri, Taluka Bramhpauri, District Chandrapur. Revised Development Plan for Bramhapuri City was sanctioned by the State Government and it was published on 28.06.2002, which came into force on 26.08.2002. In said Revised Development Plan, the said land was shown to be reserved for Extension of road from Hindu Gyan Mandir to Government Godown.

4. Since no steps for acquisition have been taken within stipulated period of 10 years, the petitioner has issued a purchased notice on 14.03.2013 but as it was technically incorrect again after 9 years, the legal heirs of original owners has issued purchase notice in terms of Section 127 of the Maharashtra Regional and Town Planning Act, 1966 on 10.12.2021. On the count of inaction on the part of respondents on second notice, the petitioner has suitably amended this

petition and claimed lapsing on account of non-compliance of second purchased notice dated 10.12.2021. It is the petitioner's contention that despite receipt of purchase notice dated 10.12.2021, respondent no.3 has not taken further steps for acquisition and thus, the reservation stood lapsed.

5. Respondent no.3 Municipal Council has filed a reply conceding the issuance of first purchase notice but it is silent about receipt of second purchase notice. The petitioner has filed a copy of the Resolution dated 29.06.2022, whereby respondent no.3 Municipal Council, Bramhapuri, admitted the receipt of second purchase notice dated 10.12.2021 and further took a decision that for want of sufficiency of funds they decided not to acquire the said land. There is no dispute about the said Resolution passed by the Bramhapuri Municipal Council. In the circumstances, virtually there is no resistance to the petition. The purchase notice has been annexed with all necessary documents as well as there is no grievance about non-compliance of statutory notice.

6. In view of the above, it is evident that statutory requirements of Section 127 of the MRTP Act have been complied with. Though the proposal has been forwarded in the year 2006, however it

was not acted upon. Notably, on receipt of purchase notice, no fresh proposal has been forwarded within the statutory period of two years, and thus, the petitioners are entitled for declaration of lapsing of reservation and secondly, relief of issuance of notification in terms of Section 127 (2) of the MRTP Act, Hence the following order :

- (a) The Writ Petition is allowed.
 - (b) It is declared that reservation of land for Extension of road from Hindu Gyan Mandir to Government Godown relating to land bearing Survey No.546 area ad-measuring 0.08 HR situated at Village Bramhapuri, Taluka Bramhpauri, District Chandrapur stands lapsed under Section 127(1) of the MRTP Act.
 - (c) Respondent No.2 is further directed to issue an appropriate Notification under Section 127(2) of the MRTP Act, within a period of eight weeks from today.
7. Rule is made absolute in above terms. No costs.

(SMT. M.S. JAWALKAR, J.)

(VINAY JOSHI, J.)

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