



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

**WRIT PETITION NO. 5834 OF 2022**

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| <p>1) Sumit Dnyaneshwar Malghade<br/>Aged 35 years, Occ.-Agriculturist,<br/>R/o. Juni Basti, Wathoda, Nagpur</p> <p>2) Krunal Dnyaneshwar Malghade<br/>Aged 29 years, Occ.-Agriculturist,<br/>R/o. Juni Basti, Wathoda, Nagpur</p> | } | <b>.. Petitioner</b> |
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**Versus**

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| <p>1) State of Maharashtra, through its<br/>Secretary Department of Urban<br/>Development, Mantralaya, Mumbai</p> <p>2) Nagpur Improvement Trust, through<br/>its Chairman, Civil Lines, Nagpur</p> | } | <b>.. Respondents</b> |
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Mr. U.P.Dable, Advocate for Petitioners.

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

Ms. Sangita Jachak, Advocate for respondent No.2.

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

**DATED : JULY 02, 2024**

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

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

(2) The petitioners have preferred this petition by invoking the extraordinary jurisdiction of this Court under Article 226 of the

Constitution of India, thereby seeking a declaration that reservation ME-52, purporting to reserve land admeasuring 0.94 hectares for the construction of a Community Center playground, has lapsed and that the said land be released from the reservation and be made available to the petitioners for its development.

(3) One Dnyaneshwar Malghade, the father of the petitioners, owned and possessed a land bearing Khasra Number 21/1 admeasuring 0.94 hectares bearing City Survey Number 29, P.H. No.34/A, situated at Mouza Wathoda, Nagpur. The said land was reserved for the purpose of constructing a Community Center (ME-52) in the Development Plan for the City of Nagpur, sanctioned on 07/01/2000 and which was revised on 10/09/2001.

(4) On 08/10/2010, Shri Dnyaneshwar expired. Petitioners and one Sagar, being his legal heirs', their names were recorded in the 7/12 extract. Subsequently, Sagar expired on 03/01/2022. Despite the sanction of the Development Plan, respondents failed to take any steps for the acquisition of the said land for more than 21 years. Therefore, on 21/06/2019, petitioners, through Advocate, issued a legal notice to respondent No.2 (NIT) under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short- '*the MRTP Act*') and thereby requested the said respondent to do the needful within the prescribed time.

(5) Despite service of the purchase notice on 21/06/2019 till the filing of the petition, respondent No.2 failed to initiate action to acquire the said land. As such, the petitioners have filed this petition.

(6) Respondent No.2 admitted the receipt of the purchase notice. However, it is contended that the other landowners have filed various writ petitions before this Court. As per the order of the Court, the land was released in their favour, and now only 0.1838 HR land is lying with them instead of 0.94 hectares of land as claimed by the petitioners. It is also contended that respondent No.2 made a correspondence with respondent No.1 and sought its guidance. However, respondent No.2 has not received a reply from respondent No.1.

(7) Having considered the rival contentions, the record and the documents, at the outset, it seems that the land in question was owned by the petitioners' father. After his demise, the petitioners, being his legal heirs, inherited the land. The respondents do not dispute this fact.

(8) It is further undisputed that in 2000-2001, the Development Plan was sanctioned, and for more than 21 years, the respondents failed to take steps for the acquisition of the said land. Respondent No.2 also admitted the receipt of the purchase notice but contended that for want of guidance from respondent No.1 State Authority, it could not take any steps in the matter. However, they

submitted that as per the order of the Court, till this date, they have released the various lands, and now only 0.1838 HR land remains with them.

(9) It further appears from the record that as per the Development Plan, the land admeasuring 0.94 hectares belonging to the petitioners was reserved for the construction of the Community Center playground, as per reservation ME-52. However, no explanation came on record as to where they utilised the remaining land of the petitioners. Moreover, the respondents have not paid any compensation to the petitioners. As such, the fact remains as to where the land admeasuring 0.75HR approximately is utilised by the respondents.

(10) Having considered the above discussion, it is revealed that petitioners, being legal heirs/owners of the land in question, have rightly issued a purchase notice to respondent No.2 (NIT), and a period of two years has lapsed after that. The respondents failed to initiate the steps to acquire the said land. Thus, it is evident that the land owned by the petitioners shall be deemed to have lapsed under Section 127 of the MRTP Act. That being so, we deem it appropriate to allow the petition.

(11) The writ petition stands allowed.

(12) It is hereby declared that reservation ME-52, reserving the

petitioners' land for the Community Center playground, has been lapsed.

(13) As a sequel to the above, the respondents are directed to release the land belonging to the petitioners within eight weeks from the date of receipt of the order. Respondent No.2 shall issue a notification indicating the lapsing of the reservation. Needless to clarify, the petitioners are free to develop the land as permissible in accordance with the rules and provisions of the law.

(14) Rule is made absolute in the above terms. No costs.

**[ ABHAY J. MANTRI, J. ]**

**[ NITIN W. SAMBRE, J. ]**

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