



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

WRIT PETITION NO. 6578 OF 2023.

Anil Tryambakrao Wakhare.

-VERSUS-

Nagpur Municipal Corporation and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri H.R. Gadhia, Advocate for the Petitioner.
Shri A.R. Sambre, Advocate for Respondent Nos.1 and 3.
Shri G.A. Kunte, Advocate for Respondent No.2.
Shri V.A. Thakare, A.G.P. for Respondent No.4.

CORAM : VINAY JOSHI AND
M.S. JAWALKAR, JJ.

DATE : JULY 22, 2024.

Heard.

2. The petitioner owns a piece of land bearing Khasara No.119/6, admeasuring 550 sq. mtrs. having City Survey No.114 of Mouza Dabha, Tahsil and District Nagpur. It is the contention of the petitioner that as and when he approached for development of the said land, requisite permission was denied and was orally informed that the land is

reserved in partly sanctioned Development Plan on 07.01.2000 and final plan dated 10.09.2001.

3. It is submitted that since there was no acquisition process within a period of 10 years, the petitioner has issued purchase notice on 06.02.2020 in terms of Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (1966 Act). Despite that no positive steps were taken for next two years, therefore, by this petition the petitioner seeks declaration of lapsing of reservation and consequential issuance of notification regarding release of the land.

4. The Planning Authority i.e. respondent Nagpur Improvement Trust has filed reply making a categorical statement in paragraph no.6, that the said land has not been reserved in the Development Plan. It is stated that after superimposing petitioner's land with the development plan, it was found that petitioner's land is not affected by the development plan, and accordingly statement is also made before us. The relevant paragraph no.6 of the

said reply/submission reads as under :

“6. That, as per the provisions of MRTTP Act, 1966 the notice u/s 127 is only applicable to the land which is reserved under Development Plan Reservation, after superimposing the petitioner’s land with D.P. provision, the land of the petitioner does not affected by any of the D.P. reservations, that has already communicated to the petitioner by NIT letter dated 29.12.2021 as well as letter No.DDTP/planning/4759, dated 10.05.2022. The copy of letter dated 10.05.2022 annexed as Annexure-R-3 for kind perusal of this Hon’ble Court.”

5. Certainly if the land of petitioner is not reserved in the development plan, there is no question of issuing directions or declaring that the reservation has lapsed. On behalf of the respondent Nagpur Improvement Trust Shri Kiran S. Rao, Deputy Director, Town Planning is also present in the Court. He reiterates that the petitioner’s land is not reserved in concerned development plan.

6. In view of above, nothing survives in the petition, the same is therefore, disposed of. We however, clarify that if the petitioner seeks

permission for development and regularization of the land, the same shall not be rejected on the count that the land has been reserved. Needless to say that the claim of petitioner for development shall be decided independently on its own merits.

JUDGE

JUDGE