



Judgment

27 wp 6671.23

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

WRIT PETITION NO. 6671/2023

1. Chandrashekhar Arjun Meher,
age 32 yrs., Occ. Agriculturist,
2. Ashabai Tikawadu Hatwar,
Age 63 yrs., Occ. Household,
3. Lalitabai Popatlal Chandewar,
age 43 yrs., Occ. Household,
4. Geetabai Tukaram Girakdar,
age 38 yrs., Occ. Household,
5. Latabai Dhanraj Pardhi,
age 41 yrs., Occ. Household,
6. Jaankumai Arjun Meher,
Age 70 yrs., Occ. Household,
7. Jairam Ako Meher,
Age 60 yrs., Occ. Agriculturist,
8. Ganpat Ako Meher,
Age 68 yrs., Occ. Agriculturist,
9. Mukunda Arjun Meher,
Age 50 yrs., Occ. Agriculturist,

All R/o. near ZP School No.3, Gujar
Ward, Bramhapuri, Tal. Bramhapuri,
Dist. Chandrapur – 441206.

...PETITIONER.

VERSUS

1. The State of Maharashtra through the Secretary, Urban Development, Mantralaya, Mumbai – 32.
2. The Director of Town Planning, State of Maharashtra, Central Building, Pune-1.
3. The Municipal Council (M.C.)/Nagar Parishad, Bramhapuri through its Chief Officer, Bramhapuri, Dist. Chandrapur.

...RESPONDENTS.

Mr. G.K. Mundhada, Advocate for petitioners.
Mr. A.M. Ghogare, AGP for respondent Nos. 1 & 2.
Mr. M. Bute, Advocate for respondent No.3.

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

DATE : JULY 05, 2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

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

2. The petitioners are joint owner and possessor of land bearing Survey No. 411, ad-measuring 0.61 HR of village .

Bramhapuri, Taluka Bramhapuri, District Chandrapur. Revised development plan of Bramhapuri city was sanctioned by the State Government and it was published vide Notification dated 28.06.2002. In the said development plan the petitioners' land has been reserved for the purpose of beautification of tank vide reservation No. 61. Since no steps for acquisition have been taken within 10 years, the petitioners have issued purchase notice in terms of Section 127 of the Maharashtra Regional Town Planning Act, 1966 ('MRTP Act') which was received by respondent No.3 on 20.04.2013. It is petitioners' contention that despite receipt of notice with title documents, respondent No.3 has not taken further steps for acquisition and thus, the reservation stood lapsed.

3. Respondent No.3 Municipal Council has filed a reply admitting the date of publication of Notification of development plan, receipt of purchase notice with requisite documents, however contended that further steps have not been taken as the petitioners have not supplied the measurement sheet. One additional reason has been assigned that due to weak financial position, the proposal was not forwarded to the Collector.

4. The most of the facts and statutory compliances are not in dispute. The purchase notice has been issued after lapsing of 10 years from the publication of Notification. There is no dispute that the notice was addressed to the competent authority and it was supported by the title document. Only objection is that the petitioner has not submitted the measurement sheet along with purchase notice. The learned counsel appearing for petitioners has relied on the decision of this Court in case of **Meeta Yuvraj Bakde & anr. Vs. The State of Maharashtra & ors**, (Writ Petition No. 7418/2022, decided on 05.09.2023) to contend that filing of measurement sheet not being a statutory requirement, the rejection was improper. Particularly, our attention is inviting to para 4 and 5 of the decision which reads as below:-

“4. The reservation which was created in view of the sanction of development plan on 26.09.2008. As nothing was done for more than a period of 10 years, a notice under Section 127 of the MRTP Act came to be issued on 24.07.2020, which is received by the respondent no. 3 on 29.07.2020 along with the requisite documents. The rejection of the notice by the respondent no.3 is on the ground, that the measurement sheet was not submitted.

The measurement sheet is not a document which is required to be submitted along with the purchase notice under Section 127 of the MRTP Act.

5. *Mr. Sagar Katkar, learned counsel for the respondent No.3 is unable to point out any other reason for rejection of the purchase notice and categorically admits, that no proposal was sent to the Collector, in pursuance to the purchase notice. He also does not dispute that the purchase notice was received on 29.07.2020 along with the requisite documents of title. That being the position, in our considered opinion, the statutory requirements of Section 127 of the MRTP Act having being complied with, and no purchase proposal having been sent during the statutory period, which expired on 28.07.2022, the petitioner would be entitled to a declaration of lapsing of reservation. Hence, we pass the following order.”*

5. In above position, it is evident that statutory requirements of Section 127 of the MRPT Act have been complied with, and no proposal has been forwarded within the statutory period of two years and thus, the petitioners are entitled for declaration of lapsing of reservation and consequential issuance of notification. Hence, we pass the following order:-

- (I) The writ petition is allowed.
- (II) It is declared that reservation No. 61 in respect of the aforesaid land stands lapsed under Section 127(1) of the MRTP Act.
- (III) The 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.
- (IV) Rule is made absolute in above terms. No costs.

(SMT. M. S. JAWALKAR, J)

(VINAY JOSHI, J.)

Gohane