



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

WRIT PETITION NO.7459 OF 2023

SIDHARTH S/O GOVINDRAO DHENGARE

VS

THE STATE OF MAHARASHTRA, THR. SECRETARY FOR URBAN DEVELOPMENT DEPT.,
MUMBAI AND OTHERS

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.B. Patil, Advocate for the Petitioner/s

Shri V.A. Thakre, AGP for the Respondent No.1/State

Shri G.A. Kunte, Advocate for the respondent Nos.2 and 3

CORAM : ANIL S. KILOR AND SMT. M.S. JAWALKAR, JJ.

DATE : 28.03.2024

1. Heard.

2. The petitioner, by way of present petition, seeks declaration that the reservation over the land in question which is owned by the petitioner, is lapsed on the ground that the respondent/Nagpur Improvement Trust (NIT) has failed to take steps or to acquire the land within two years from the date of service of notice under Section 127 of the Maharashtra Regional Town Planning Act, 1966 (for short "the MRTPA Act").

3. The petitioner is the owner of the plot No.28 admeasuring 2430 sq. feet, in Shubhagi Gruh Nirman Sanstha situated on Khasra No.89, P.H. No.44 Mouza Somalwada, Taluka and District Nagpur.

4. The Development Plan for the city of Nagpur came into force on 10.09.2001 and on the application made by the

petitioner for regularization of the plot in question, the NIT vide Memo dated 19.05.2002 informed the petitioner that the plot cannot be regularized for the reason that the plot has already been reserved for primary school in the Development Plan of the Nagpur City.

5. Since the NIT failed to take any steps within 10 years from the date of publication of the final Development Plan, the petitioner issued a notice under section 127 of the MRTP Act to the NIT as well as the Nagpur Municipal Corporation (NMC).

6. Thereupon, the NIT vide its communication dated 08.11.2021 addressed to the petitioner, demanded certain documents namely property card of the said plot and 'K' Prat from the City Survey Department for the entire Mouza.

7. It is the case of the NIT that the above referred documents were required for verification. However, on a specific query, whether under the provision of Section 127 of the MRTP Act, there is any such requirement to submit the above referred documents by the owner, the learned counsel for the NIT failed to point out any such requirement.

8. There is no dispute that the title document i.e. sale deed was submitted by the petitioner along with notice under Section 127 of the MRTP Act, which is the requirement under the provision of Section 127 of the MRTP Act.

9. Now by way of affidavit-in-reply, the NIT is opposing the present writ petition on the ground that since the demand of

documents was not complied with by the petitioner, the steps could not be taken in the matter to acquire the land in question.

10. This argument cannot be accepted for the reason that the Memo dated 19.05.2002 issued by the NIT to the petitioner, informing that the land cannot be regularized as it has been reserved for primary school, contains all the necessary details of the land. This document shows that the NIT possesses all the required information and details of the land in question.

11. In the light of the above referred facts, there is no dispute that the Development Plan of the Nagpur City was published on 10.09.2001 and since no steps were taken by the NIT for 10 years. There is further no dispute that, on 16.08.2021 the notice under Section 127 of the MRTP Act was issued by the petitioner, was received by the NIT on 24.08.2021 and even thereafter, no steps to initiate the acquisition proceeding or to acquire the land were taken for two years, which would make the land dereserved.

12. In the circumstances, we have no hesitation to hold that the prayer made in the petition needs to be allowed. Accordingly, we pass the following order:

- (i) The writ petition is **allowed** in terms of prayer clause (1)
- (ii) The respondent No.1 is further directed to issue notification under Section 127(2) of the MRTP Act within three months from today.

The writ petition is disposed of.

[SMT. M.S. JAWALKAR, J.]

[ANIL S. KILOR, J.]