



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

WRIT PETITION NO.1535 of 2024

Mr. Ashok Shyamraoji Thomre Vs. State of Maharashtra and others

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr. M.M. Agnihotri, Advocate for petitioner.
Mr. A.J. Pathak, Advocate for respondent no.2.
Mr. N.R.Patil, AGP for respondent nos.1 and 3.

CORAM : NITIN W. SAMBRE & MRS. VRUSHALI V. JOSHI, JJ.
DATE : NOVEMBER 22, 2024.

1. Heard.
2. The respondent no.2 is the Planning Authority for Pandharkawda town in Yavatmal district.
3. The petitioner claims to be the owner of the land Gat No.52/2, admeasuring 1.43 Hectares, Class-I situated at mouza Pandharkawada, Tahsil Kelapur, District Yavatmal. Said land of the petitioner situated within the municipal limits, as per the development plan was earmarked and reserved for residential zone viz., the house for poor people + quarters for the employees of Nagar Parishad as on 18th May, 1998.
4. Neither the land in question was acquired nor the land was purchased by the respondent-Municipal Council, prompted the petitioner to issue the purchase notice, vide communications dated 8th March, 2021, 13th March, 2023 and 12th June, 2023.

5. As such, it was incumbent on the part of the respondent to acquire the land through acquisition proceedings or to take an alternate mode viz., purchasing the same by private negotiation, which they have failed to.

6. That being so, the petitioner has sought a declaration about lapsing of the reservation, pursuant to the provisions of Section 127 of the Maharashtra Regional and Town Planning Act, 1966.

7. It is established from the record that the aforesaid purchase notice were duly served on the respondent no.2-Planning Authority and Mr. Pathak, Counsel appearing for the respondent no.2, has not disputed the said fact.

8. In the affidavit-in-reply, the respondent-Municipal Council has in para 5 specifically stated that concrete steps for acquisition were not initiated by the Municipal Council after the purchase notice were received by them.

9. It is further stated in the affidavit-in-reply that considering the adverse financial condition of the Municipal council, it is not in a position to either acquire the land through acquisition proceedings or by private negotiation.

10. In this background, if we appreciate the rival claims, it has to be borne out of the record that the land of the petitioner

was reserved for housing scheme way back in 1998 and the respondent-Planning Authority has failed to take positive steps in the matter of acquisition of the land. The same has prompted the petitioner to issue purchase notices on 8th March, 2021, 13th March, 2023 and 12th June, 2023.

11. The acknowledgment of the aforesaid notices is also admitted by the respondent-Municipal Council and in categorical terms has stated that their financial condition is not permitting them to acquire the aforesaid land.

12. In that view of the matter, the provisions of Section 127 of the Maharashtra Regional Town Planning Act, 1966 shall come into play. In such an eventuality, the land has to be directed to be released from the clutches of reservation, which is earmarked by the respondent no.2 for housing scheme.

13. That being so, we deem it appropriate to allow the petition.

14. We hereby declare that the land bearing Gat No.52/2, admeasuring 1.43 Hectares, Class-I, situated in Mouza Pandharkawada, Tahsil Kelapur, District Yavatmal within the municipal limits of the respondent no.2-Municipal Council, which has been reserved by the respondent under Reservation No.29 (House for Poor People + Quarters for the Employees of Nagar Parishad (Residential Zone) is released from the reservation, as the reservation has lapsed for inaction of the

respondent, as contemplated under Section 127 of the Maharashtra Regional and Town Planning Act, 1966.

15. The consequential notification be issued by the respondents within a period of three months from the date of the communication of this order by the petitioner.

16. Needless to observe that once the notification of de-reservation is issued, the land shall absolutely vest in the petitioner and he shall be at liberty to deal with the same.

17. The petition stands allowed in the above terms. No costs.

(MRS.VRUSHALI V. JOSHI, J.) (NITIN W.SAMBRE, J.)