



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

WRIT PETITION NO.7286 OF 2022

Shivkumar s/o. Kashinathapa Khubba

..Petitioner

Vs.

The State of Maharashtra and ors.

..Respondents

Mr.H.B.Nandagavale, Advocate for petitioner

Mr.P.S.Patil, AGP for respondent nos.1 to 4

Mr.H.V.Patil, Advocate for respondent no.5

**CORAM : R.G.AVACHAT AND
NEERAJ P. DHOTE, JJ.
DATE : JULY 30, 2025**

ORDER :-

Heard.

2. The petitioner is the owner of the land admeasuring 1 H 16 R, in survey no. 154/2, out of which the land to the extent of 60 R, has been reserved for play ground and for other public purpose in the final development plan of 2002.

3. Since the respondent - Corporation did not take any positive steps towards acquisition of the said land, the petitioner issued purchase notice on 20.02.2020. The respondent - Corporation received the said notice, but to no avail. This petition has, therefore, been filed.

4. The respondents filed affidavit-in-reply, stating therein to have no funds for acquisition of the land of the petitioner. It has come with a case that it is ready to give the petitioner T.D.R. He would, ultimately, urge for dismissal of the petition.

5. We have considered the submissions advanced. Perused the documents on record. Section 127 of the Maharashtra Regional and Town Planning Act, 1966 reads thus:-

127. Lapsing of reservations.

(1) If any land reserved, allotted or designated for any purpose specified in any plan under this Act is not acquired by agreement within ten years from the date on which a final Regional plan, or final Development plan comes into force or, if a declaration under sub-section (2) or (4) of section 126 is not published in the Official Gazette within such period, the owner or any person interested in the land may serve notice, alongwith the documents showing his title or interest in the said land, on the Planning Authority, the Development Authority or, as the case may be, the Appropriate Authority to that effect; and if within twenty four months from the date of the service of such notice, the land is not acquired or no steps as aforesaid are commenced for its acquisition, the reservation, allotment or designation shall be deemed to have lapsed, and thereupon the land shall be deemed to be released from such reservation, allotment or designation and shall become available to the owner for the purpose of development as otherwise, permissible in the case of adjacent land under the relevant plan.

(2) On lapsing of reservation, allocation or designation of any land under sub-section (1), the Government shall notify the same, by an order published in the Official Gazette.

6. Admittedly, the land of the petitioner has been reserved for play ground and other amenities in the development plan, which was finally approved way back in 2002. For over years, the respondent - Corporation did not take any steps towards acquisition of the said land. The petitioner, ultimately, issued purchase notice on 20.02.2020. A copy of the notice is placed on record. Receipt thereof is not in dispute. In spite of receipt of the purchase notice, the respondent - Corporation did not take steps towards acquisition of the said land. On the other hand, it has come with a stand to have no funds for acquisition of the land and therefore, offered TDR to the petitioner. Needless to mention that in terms of Section 126(1)(b) of the M.R.T.P. Act, an offer to receive TDR may be optional and subject to the consent of the land owner. The petitioner - land owner is not ready and willing to accept the TDR in consideration of the land to be acquired. The offer of the respondent - Corporation has, therefore, no bearing on the fate of this Writ Petition.

7. Since the respondent - Corporation failed to take effective steps towards acquisition of the land of the petitioner in spite of receipt of the purchase notice, in view of the deeming fiction, the petitioner's land under reservation, stands de-reserved. The

petition, therefore, succeeds and the same is allowed in terms of prayer clauses (B) and (C). The respondent - State shall issue the necessary notification as to de-reservation of the land, within a period three months from the date of receipt of a copy of this order.

[NEERAJ P. DHOTE, J.]

[R.G. AVACHAT, J.]

KBP