



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7212 OF 2022

Triptee Rajesh Jain and Another

..PETITIONERS

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....

Mr. A.B. Kale, Advocate for petitioners

Mr. D.R. Korade, A.G.P. for respondent nos. 1 to 3

Mr. V.D. Gunale, Advocate for reservation no.4

....

CORAM : R.G. AVACHAT AND
SANDIPKUMAR C. MORE, JJ.

DATE : 04th APRIL, 2025

PER COURT :

1. Heard.

2. This writ petition has been filed mainly for the following reliefs :-

“(C) To direct the respondents to dereserve the land of the petitioners from Gut No.339/2 to the extent of 3 Hec 10 R and Gut No. 339/3 to the extent of 3 Hec 11 R situated at Pimprala Tal and Dist. Jalgaon and for that purpose issue necessary orders;

(D) To direct the respondents to delete the reservation of the land of the petitioners from Gut No.339/2 to the extent of 3 Hec 10 R and Gut No. 339/3 to the extent of 3 Hec 11 R situated at Pimprala Tal and Dist. Jalgaon from the development plan as per Sec.50 of the Maharashtra Regional Town Planning Act and for that purpose issue necessary orders;”

3. The petitioners claim to be the owners and possessors of land Gut No.339/2 admeasuring 3 H. 10 R. and of land Gut No. 339/3 admeasuring 3 H. 11 R. respectively. An area of 3400 sq.mtrs. thereof has been reserved in the development plan for 24 mtr. And 18 mtr. width road.

4. The petitioner issued a notice under Section 127 of the Maharashtra Regional Town Planning Act, 1966 ('MRTP Act') to the local authority i.e. Respondent No.5 – Jalgaon Municipal Corporation on 02nd January, 2020 calling upon it to acquire the said land. Respondent No.5, on receipt of the notice, however did not take any steps towards acquisition of the said land within the prescribed period of two years

5. Learned counsel for Respondent No.5 submits that it had offered the petitioner reservation credit certificate under the provisions of Unified Development Control and Promotion Regulations. Needless to mention, it was an offer and unless the same was accepted, the offer cannot be stated to be a step taken towards acquisition of the land in terms of Section 127 of the MRTP Act.

6. An affidavit-in-reply has been filed on behalf of Respondent Nos. 4 and 5 stating therein that the notice was bad since it was not accompanied

with the requisite documents and particularly the measurement map. In our view, the said ground of challenge is unsustainable since Section 127(1) of the MRTP Act only mandates that such notice shall be accompanied by the documents showing the person who issued said notice to have any interest or title in/of the said land. Office copy of the notice indicates that alongwith it, the 7/12 extract and copy of the development plan were sent to the concerned authorities. We found the same to be in compliance with the requirement of Section 127 of the MRTP Act. For better appreciation we propose to reproduce the said section below :-

“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 plant.*

(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.”

7. Since a period of two years has long been over post receipt of notice by Respondent No.5 and no steps towards acquisition of the land under reservation have been initiated, in view of the mandate of Section 127 of MRTP Act, the said land stands de-reserved from the development plan. We are, therefore, inclined to allow the writ petition in terms of prayer clauses (C) and (D).

SSD

(SANDIPKUMAR C. MORE, J.)

(R.G. AVACHAT, J.)