



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

WRIT PETITION NO.6588 OF 2024

1.	Kiran Devidas Khadke	
2.	Dipak Devidas Khadke,	
3.	Suhas Devidas Khadke	..Petitioners
	Vs.	
	The State of Maharashtra and others	..Respondents

Mr.R.P.Totala, Advocate h/f. Mr.A.P.Bhandari, Advocate for petitioners
Mr.A.R.Kale, Addl. Govt. Pleader for respondent nos.1 to 3, 6 and 7
Mr.S.B.Munde, Advocate for respondent no.5

**CORAM : R.G.AVACHAT AND
NEERAJ P. DHOTE, JJ.**
DATE : AUGUST 18, 2025

ORDER :-

The petitioners are owners of the land admeasuring 9100 sq. mtrs., in Survey No.461/1, situated within the limits of Jalgaon City Municipal Corporation, out of which, the land admeasuring 3191.12 sq. mtrs., is affected by the development plan sanctioned for Jalgaon City Municipal Corporation. The development plan was sanctioned in two parts way back in 2002. The first was sanctioned on 11.02.2002 and applied from 07.04.2002. In the said development plan, the writ land has been reserved for a primary school and play ground, as site no.23. For over years, the respondent - Municipal Corporation did not take steps for acquisition of the writ land. The petitioners, therefore, issued

purchase notice on 22.07.2021, under Section 127 of the Maharashtra Regional and Town Planning, 1966 ("MRTP Act", for short). The notice was served on the respondent - Corporation and its town planning department as well. Thereafter, the petitioners also issued reminder notice on 23.08.2021. The respondent - Corporation, in turn, vide letter dated 07.09.2021, informed that the petitioner did not annex the documents, showing their ownership of the writ land; and that if the lands owned by them are affected due to the development plan, the respondent - Corporation is ready to offer Transferable Development Rights (TDR), in lieu of the monetary compensation. Thereafter, vide letter dated 01.10.2021, the petitioners submitted the documents of ownership of the writ land and undertook to submit the original map. They refused to accept the TDR. The matter did rest at that only. Thereafter, no further steps have been initiated by the respondents for acquisition of the writ land. The petitioners, therefore, filed the present Writ Petition.

2. The respondent - Corporation filed its affidavit-in-reply. It has been stated therein that the notice served by the petitioners was not accompanied by the requisite documents, showing title of the land owners or their interest in the suit land and measurement sheet to ascertain that the said land is affected by the reservation. The

respondent - Corporation offered the petitioners TDR and also communicated the same in terms of clause 11.2 of the Unified Development Control and Promotion Regulations, 2020. Providing TDR in lieu of the monetary compensation is permissible. Dismissal of the Writ Petition was, therefore, urged for by learned AGP.

3. We have considered the submissions advanced. Perused the documents on record. It would be relevant to reproduce Section 127 of M.R.T.P. Act, which 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, along with 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.

4. Admittedly, the writ land belongs to the petitioners. It has been reserved for a primary school and play ground in the Development Plan approved way back in April, 2002. Within ten years of the writ land to have been reserved, the local authority, i.e. respondent – Corporation, was expected to take effective steps for acquisition of the same. On the contrary, it has come with an offer to grant the petitioners TDR in lieu of the monetary compensation.

5. The petitioners, admittedly, issued the notice under Section 127 of M.R.T.P. Act. The same has been received. In response to the notice reply, the petitioners submitted documents of title. The petitioners expressed disinclination to receive TDR in lieu of the monetary compensation. Needless to state, a land owner has a right to receive compensation in money. Receiving TDR is optional. Within two years of receipt of the said notice, no effective steps have been initiated for acquisition of the writ land. By virtue of the deeming fiction under Section 127 of MRTP Act, the writ land, therefore, stands de-reserved.

6. In view of the above, the petition succeeds and the same is allowed in terms of prayer clauses (B) and (C). The respondent – State shall issue 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