



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 3023 OF 2025
IN
WRIT PETITION NO. 13555 OF 2019
WITH
WRIT PETITION NO. 13555 OF 2019
WITH
CIVIL APPLICATION NO. 9300 OF 2021
IN
WRIT PETITION NO. 13555 OF 2019

Yashwant Ramdas Kolhe And Others
VERSUS
The State Of Maharashtra And Others

...

- Mr. P. R. Katneshwar, Senior Counsel i/by. Mr. S. V. Natu., Advocate for Applicants/Petitioners
- Ms. S. S. Joshi, AGP for Respondent Nos. 1 and 2 in WP
- Mr. S. B. Munde, Advocate for Respondent No. 3 in WP

...

CORAM : MANISH PITALE AND
Y. G. KHOBRAGADE, JJ.

DATE : 04.08.2025

PER COURT :

1. Heard learned counsel for the parties. Rule. Rule made returnable forthwith. Heard finally with the consent of the learned counsel for the parties.

2. In the present case, the petitioners are invoking Section 127 of the Maharashtra Regional and Town Planning Act, 1966. According

to them, the statutory provision operates in their favour in the facts of the present case, and the reservation on the subject land has lapsed.

3. The brief facts of the present case are that on 07.04.2002, the development plan was enforced, which initially showed a reservation on the subject land for a playground and a road. Subsequently, the reservation of playground was modified to that of a garden.

4. The petitioners issued notice as contemplated under the said provision on 20.12.2018, much after the 10 year period of reservation had elapsed. According to the statutory scheme, the respondent authorities were expected to take necessary steps for acquisition of the land in terms of the reservation within two years of receiving such purchase notice.

5. It is an admitted position that no such steps were taken. Therefore, by operation of statute, the reservation itself has lapsed.

6. In this backdrop, when this petition came up for consideration on 26.07.2024, this Court directed the learned counsel for respondent – Corporation to take instructions as to whether any steps had been taken to acquire the land in question.

7. Learned counsel appearing for respondent – Municipal Corporation has written instructions to state that although no steps for acquisition have been taken, but respondent – Municipal Corporation is ready to offer Transferable Development Rights (TDR) to the petitioners instead of compensation.

8. Learned senior counsel for the petitioners, on instructions, states that insofar as the DP road is concerned, since it is a facility available to the public at large as well as the petitioners, they are ready to accept TDR in respect of portion of land affected by the DP road but for the balance area they shall not accept TDR.

9. In view of the above, considering the admitted position on facts and the statement made on behalf of respondent – Municipal Corporation, we direct that, in light of the specific instructions obtained from the petitioners, the respondent – Municipal Corporation shall offer TDR for the portion of the subject land affected by DP Road, which the petitioners shall accept as they have indicated hereinabove. For the balance area of the subject land, the reservation has indeed lapsed, and therefore, the petitioners would be entitled to use the said portion of land reserved for garden, for the purpose for which the adjacent land is used.

10. In light of the above, the respondent shall take further steps for issuance of notification to the effect that the reservation has lapsed, within a period of six months from today.
11. The writ petition stands **disposed of**.
12. Rule is made absolute in above terms.
13. Pending applications, if any, also stand disposed of.

(Y. G. KHOBRADE, J.)

(MANISH PITALE, J.)