



1-wp12408.2024

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

WRIT PETITION NO.12408 OF 2024

1. Babasaheb Karbhari Dhondre,
2. Smt. Jijabai Prakash Rokade,
3. Kisan Khanderao Dhondre,
4. Raosaheb Karbhari Dhondre,
5. Bhumi Builders and Developers ..Petitioners

Vs.

The State of Maharashtra
and ors. ..Respondents

Ms.S.D.Tambe and Mr.M.G.Deokate, Advocate for petitioners
Ms.S.K.Tambe, AGP for respondent nos.1 and 2
Mr.A.R.Tapse, Advocate h/f. Mr.Vaibhav Deshmukh, Advocate for
respondent no.3

**CORAM : R.G.AVACHAT AND
SANDIPKUMAR C. MORE, JJ.
DATE : MAY 05, 2025**

ORDER :-

Heard.

2. Rule. Rule is made returnable forthwith.
3. This petition has mainly been filed for the following reliefs:-

(B) To hold and declare that the reservation on the land owned by present petitioners, bearing Gut No.77, situated at Golwadi (Golewadi), Tq and Dist. Aurangabad (Chh.Sambhajinagar), i.e. for Site No.2/114 (Play Ground) admeasuring 1H 05 R,

sanctioned in the development plan dated 14.08.2001 for Waluj, CIDCO notified area Dist. Aurangabad, has lapsed in view of the provisions of Section 127 of the Maharashtra Regional and Town Planning Act, 1966;

(C) By issuing Writ of Mandamus or any other order or directions in the like nature, the respondent authorities may kindly be directed to notify the lapsing of reservation over the land of the petitioners i.e. Gut No.77, situated at Golwadi (Golewadi), Tq. Dist. Aurangabad (Chh. Sambhajinagar), i.e. for site No.2/114 (Play Ground) admeasuring 1H 05 R, by publishing notification in the official gazette U/sec.127(2) of the M.R.T.P. Act, 1966, forthwith.

4. The land bearing Gut No.77, situated at village Golwadi (Golewadi), Tq. and Dist. Chh.Sambhajinagar (Aurangabad), admeasuring 1H 5 R, belonging to the petitioners, is the subject-matter of this Writ Petition. The said land has been reserved in the development plan of the year 1991, for play ground. After having passed ten years thereafter, since no steps were taken for acquisition, the petitioners issued notice under Section 127 of the Maharashtra Regional Town Planning Act, 1966, on 22.06.2022, along with the documents, indicating the petitioners' interest in the land. Admittedly, respondent no.3 received the notice. Inspite of receipt of the notice, no positive steps have been taken towards acquisition of the land.

5. Learned counsel for respondent no.3 - acquiring body, still, opposes the petition and submits that if the funds would be available, a proposal for acquisition would be moved to the Acquisition Officer with deposit of the requisite amount. This submission would not stand to legal scrutiny.

6. Since the purchase notice under Section 127 of the M.R.T.P. Act has not been positively acted upon by the acquiring body by taking adequate steps towards acquisition of the land, the land stands de-reserved and available for the petitioners for the purpose of development as otherwise, permissible in the case of adjacent land under the relevant plan.

7. In view of the above, the petition stands allowed in terms of prayer clauses (B) and (C). Rule is made absolute accordingly.

[SANDIPKUMAR C. MORE, J.]

[R.G. AVACHAT, J.]

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KBP