



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

957 WRIT PETITION NO.12310 OF 2024

Sayyad Jamil Sayyad Roshan Hashmi And Others

VERSUS

The State of Maharashtra Through Secretary And Another

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Shri. Raviraj R. Chandak, Advocate for the Petitioners

Shri. S. K. Tambe, Add. G. P. for Respondent No.1 / State

Shri. M. P. Tripathi, Advocate for Respondent No.2

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CORAM : R. G. AVACHAT AND
NEERAJ P. DHOTE, JJ.

Dated : JUNE 10, 2025

FINAL ORDER :-

. The Petitioners have approached this Court in exercise of the powers under Article 226 of the Constitution of India with the following prayer clauses :-

“(A) The Writ Petition may kindly be allowed;

(B) To hold and declare that, the reservation on the land bearing Survey No.95 (at present which is recorded in the revenue record as Survey No.95/2) admeasuring 1 H. 70 R. in total as Site No.25 (Stadium) and 15 Mtrs. DP Road, has lapsed in view of the provisions of Sec. 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. Survey No.95/2 situated within the limit of Municipal Council i.e. respondent no.2, by publishing notification in official gazettee U/sec. 127 (2) of the M.R.T.P Act, 1966 forthwith.

(D) Any other just and equitable relief to which the petitioners is found entitled be granted in the interest of justice”

2. Heard the learned Advocate for the Petitioners, the learned AGP for Respondent No.1 / State and learned Advocate for Respondent No.2.

3. The Petitioners' land bearing Survey No.95/2 situated within the jurisdiction of Respondent No.2, was reserved for Stadium vide Reservation Site No.25 and 15 meters wide D.P. road. The Notification in that regard was issued on 28.04.2011 making effective the reservation from 15.05.2011. Since Respondent No.2 failed to take appropriate steps for acquisition of land of the Petitioners under the Provisions of Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as the 'the MRTTP Act'), the Petitioners served the notice to Respondent No.2 on 19.04.2022 asking for acquisition of the land. However, no steps were taken by Respondent No.2 till date or within a period of two (2) years. Hence, the Petitioners have prayed to allow the Petition.

4. Respondent No.2 has filed the Reply affidavit. The same is taken on record. It is the contention of Respondent No.2 that due to limited source of income and huge amount is required for acquisition of land, no steps were taken towards acquisition of the Petitioners' land.

5. Learned Advocate for Respondent No.2 submits that the Petition may be dismissed.

6. Issue involved in the Petition revolves around under Section 127 of the MRTP Act, which is reproduced 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 twelve 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.]]”

7. From the above provision, it is clear that, there is stipulation of time provided by the legislature in respect of acquisition of land which is notified for Final Development Plan. It is clear that, legal fiction is created by the above referred provision. The reasons quoted by Respondent No.2 for not taking appropriate steps in the matter cannot be the ground not to take steps for acquisition of land of the Petitioners by Respondent No.2. In view of the above, Petition needs to be allowed

and hence, we proceed to pass the following order.

ORDER

- (i) The Petition is allowed in terms of prayer clauses 'B' and 'C'.
- (ii) Respondent No.2 shall issue Notification within a period of six months from today.
- (iii) Petition stands disposed off accordingly.

(NEERAJ P. DHOTE, J.)

(R. G. AVACHAT, J.)

GGP