



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12256 OF 2024

Tulshiram Bandu Patil,
Age : 68 years, Occu: Agriculturist,
R/o. Near Baithak Hall, Gut No. 132,
Plot No. 1, Old Khedi Road, Jalgaon,
Taluka & District Jalgaon.

...Petitioner

Versus

1. The State of Maharashtra,
Through Principal Secretary,
Urban Development Department,
Mantralaya, Mumbai.
2. Collector, Jalgaon,
Taluka & District Jalgaon.
3. Director,
Town Planning Department,
Maharashtra State, Pune,
Central Offices, Old Building,
Pune.
4. Assistant Director,
Town Planning Department,
Jalgaon City Municipal Corporation,
Jalgaon.
5. Jalgaon City Municipal Corporation,
Through its Commissioner,
Neharu Chauk, Jalgaon,
Taluka & District Jalgaon.

...Respondents

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Mr. P. R. Katneshwarkar, Advocate i/b Mr. S. H. Tripathi – Advocate for
the Petitioner

Mr. S. R. Yadav-Lonikar – AGP for Respondent Nos. 1 to 3/State
Mr. S. B. Munde – Advocate for Respondent Nos. 4 and 5

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**CORAM : S. G. CHAPALGAONKAR
AND
NEERAJ P. DHOTE, JJ.**

DATE OF RESERVING THE ORDER : 25TH JUNE, 2025
DATE OF PRONOUNCING THE ORDER : 04TH JULY, 2025

ORDER [Per Neeraj P. Dhote, J.] : -

1. With the consent of both the sides, the Petition is finally heard.

2. By the present Petition under Article 226 of the Constitution of India, the Petitioner prays as follows :-

“A] The writ petition may kindly be allowed.

B] The Hon’ble High Court may kindly be pleased to issue appropriate writ, order or direction in the nature of writ, and thereby declare that the land Survey No. 7/1/B/3 admeasuring OH 76R situated at Khedi Budruk, Taluka & District Jalgaon, is free from any encumbrance of reservation more particularly from Reservation No. 216 of Vegetable Market, Reservation No. 217 of Town Hall & Library, Reservation No. 218 of playground and 12 Mt. Development plan road as reserved in final development plan of Jalgaon (Additional Area).

C] The Hon’ble High Court may kindly be pleased to issue appropriate writ, order or direction in the nature of writ, and direct the respondents to notify the lapsing of reservation by publishing notification in Official Gazette under section 127(2) of MRTP Act, forthwith.

D] Any other just and equitable relief, this Hon’ble Court may find just and proper may please be granted, in favour of petitioner.”

3. The Petitioner is the owner and possessor of Land Survey No. 7/1/B/3, *ad measuring* 0 H 76 R, Taluka and District Jalgaon, situated within the limits of Jalgaon Municipal Corporation. The Petitioner submitted an Application to the Respondent No. 4 / Assistant Director, Town Planning, Jalgaon City Municipal Corporation, Jalgaon, seeking details of reservation on the said land. By the letter dated 07th June, 2019, the Respondent No. 4 / Assistant Director, Town Planning, informed the Petitioner that, by Notification dated 11.02.2002, the Final Development Plan of Jalgaon City (Additional Area) was sanctioned by the State Government which came into force from 07.04.2002. It was further informed by the said communication that, the Final Development Plan of Jalgaon City (Additional Area), Excluded Part, was sanctioned by the State Government by Notification dated 10.08.2004, which came into force from 01.10.2004. It was further informed by the said communication that, as per the sanctioned Development Plan (Additional Area), the subject land was reserved for the following purposes:

- Reservation No. 216 - for Vegetable Market,
- Reservation No. 217 - for Town Hall and Library, and
- Reservation No. 218 - for Play-ground and
12 mtr. Development Plan Road.

4. As 17 years lapsed from coming into force of the Final Development Plan for Jalgaon City, the subject land remained under the said Reservation without further effective steps by the Government towards Acquisition. Therefore, the Petitioner served a Notice dated 23.08.2021, pursuant to the provisions of Section 127 of the Maharashtra Regional and Town Planning Act, 1966 [for short 'MRTP Act'] upon Respondent No. 5. However, despite serving the said notice by the Petitioner upon Respondent No. 5 – Commissioner of Jalgaon City Municipal Corporation, no steps towards acquisition were taken. The Petitioner has, therefore, approached this Court with the above referred prayers.

5. It is submitted by the learned Advocate for the Petitioner that, due to the failure of the Competent Authority to take any steps within the stipulated period as provided under Section 127 of the MRTP Act, the Petition be allowed. He further submitted that the Petitioner was ready to accept the offer of TDR against the acquisition of the land to the extent it was reserved for the Development Plan road.

6. The learned Advocate for the Respondent Nos. 4 and 5, Assistant Director and Commissioner of Jalgaon City Municipal

Corporation, Jalgaon, does not dispute the settled legal position contemplated under Section 127 of the MRTP Act. He submitted that, on written instructions from Respondent No. 4 - Jalgaon City Municipal Corporation, the Corporation is ready to acquire the land for Development Plan road in exchange of TDR or RCC and the subject land was in the possession of the Petitioner. A copy of the communication in that regard is tendered across the bar by the learned Advocate for Respondent No. 5. The same is taken on record and marked as "X" for the purpose of identification. It is submitted that the necessary orders be passed.

7. Heard both the sides. Perused the papers on record.

8. The issue involved in the Petition is governed by the provisions of Section 127 of the MRTP Act, which is reproduced below:

"127. Lapsing of reservations.

⁵[(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*
⁶*[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* ¹*[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[(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.]

9. There is no dispute on the following aspects:
- [a] The subject land is owned and possessed by the Petitioner.
 - [b] The subject land was reserved in the Final Development Plan of Jalgaon (Additional Area) for Vegetable Market, Town Hall and Library, Play-ground and Development Plan Road.
 - [c] No steps were taken by the Competent Authorities as contemplated under the above referred provisions of Section 127 of the MRTP Act.
 - [d] The Petitioner served the notice upon the Competent Authority as provided under Section 127 of MRTP Act.
 - [e] Despite service of the said notice, no steps for its acquisition were taken by the Competent Authority within the period stipulated under Section 127 of MRTP Act.

10. The above referred provision mandates that the land reserved for any purpose specified in the Final Development Plan under the MRTP Act, should be utilized within the prescribed time period, otherwise the reservation shall be deemed to have lapsed. It would not be out of context to refer to the decision of the Hon'ble Supreme Court of India in *Nirmiti Developers Through Its Partners v. State of Maharashtra*, AIR 2025 SC 1495, wherein it is observed that, *the landowner cannot be deprived of the use of the land for years together. Once an embargo has been put on a landowner not to use the land in a particular manner, the said restriction cannot be kept open-ended for indefinite period. The statute has provided a period of ten years to acquire the land under Section 126 of the Act. Additional one year is granted to the landowner to serve a notice for acquisition prior to the amendment by Maharashtra Act 42 of 2015. Such timeline is sacrosanct and has to be adhered to by the State or by the authorities under the State.*

11. No more discussion is required, as the factual aspects and the legal position on the subject matter is clear and undisputed. Thus, the subject land bearing Survey No. 7/1/B/3, to

the extent it is reserved for Vegetable Market, Town Hall, Library and Play-ground situated at Khedi Budruk, Taluka and District Jalgaon, stands released from reservation. The Respondents shall take further steps for issuance of a Notification to that effect within a period of six (6) months.

12. As far as the extent of land affected in the Development Plan Road is concerned, the Petitioner and Respondent No. 4 – Assistant Director, Town Planning Department, Jalgaon City Municipal Corporation, Jalgaon and Respondent No. 5 – Commissioner, Jalgaon City Municipal Corporation, Jalgaon, are in agreement to each other that TDR will be given to the Petitioner against the acquisition to that extent. According to the learned Advocate for the Petitioner, identical request for consent acquisition against the TDR was granted by this Court in Writ Petition No.7082 of 2015, decided on 22.02.2017, and tenders across the bar a copy of the said order, which is taken on record and marked as “X-1” for the purpose of identification. In view of this and with the consent of both the parties, the Respondents to offer/grant the TDR, as admissible, in respect of the Petitioner’s land affected by the Development Plan Road, and Petitioner to accept the same.

13. In view of the above discussion, the Petition is disposed off.

[NEERAJ P. DHOTE]
JUDGE

[S. G. CHAPALGAONKAR]
JUDGE

SG Punde