



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

971 WRIT PETITION NO. 13201 OF 2024

GANGARAM PRABHANNA WASAMWAR
ALIAS GANGARAM PRABHANNA VASAMVAR

VERSUS

THE STATE OF MAHARASHTRA
THROUGH SECRETARY AND OTHERS

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Advocate for the Petitioner : Mr. Jadhav Aummaheshwari S.
AGP for Respondent/State : Ms. K.B.Patil-Bharaswadkar
Advocate for Respondent No.4 : Mr.Swapnil Patunkar i/byJ.P. Legal Associates

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CORAM : R.G. AVACHAT AND
ABASAHEB D. SHINDE, JJ.

DATE : 25.09.2025

PER COURT :

. Heard.

2. The land of the petitioner has been Reserved for Parking and Shopping Complex in the final Development Plan approved on 15.05.2002. Till date, the Respondent/Local Authority has not taken any effective steps, towards acquisition of the said land. The petitioner, therefore, issued a Purchase Notice under Section 127 of 'The Maharashtra Regional and Town Planning Act, 1966 (in short 'M.R.T.P' Act), on 04.07.2022. A Notice has already been received by the Local Authority. A period of two years has lapsed thereafter. Since, no steps towards acquisition of the land in response to the purchase notice were resorted to by the Respondent/Local Authority,

the present Petition has been filed for declaration of land, as being de-reserved from the final Development Plan.

3. The learned advocate for the Respondent/Local Authority would submit that the authority has forwarded a proposal to the State Government, for grant of funds for acquisition of the land. He would further submit that, the Local Authority is ready to offer the Petitioner, T.D.R, in lieu of the amount of compensation. He, therefore, urged for dismissal of the Writ Petition.

4. We have considered the submissions advanced. Perused the documents on record. Section 127 of the M.R.T.P Act 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, 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 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."

5. Admittedly, the land of the petitioner has been reserved for Parking and Shopping Complex in the final Development Plan approved on 15.05.2002. The petitioner issued a Notice under

Section 127, calling upon the Respondent/Corporation to take steps towards acquisition of the land. The documents of title were supplied along-with the notice. The receipt of the notice is also not disputed. A period of two years, post-receipt of the notice, has also elapsed. During the said period, the Respondent/Local Authority, has not taken any effective steps, such as depositing certain amount with the Land Acquisition Officer (L.A.O), towards payment of compensation to the land owner. Merely, making a demand of funds from the State Government or offering the T.D.R is not considered to be an effective step, towards acquisition of the land, reserved for Public Purpose. As such, for over two years, post receipt of the notice, no effective steps have been taken for acquisition of the land. By Deeming Fiction under Section 127 of M.R.T.P Act, the land shall be deemed to have been De-reserved and be available to the owner thereof, for being used as a land, that would be used by the adjoining owners of the land.

6. In view of the above, the Writ Petition succeeds in terms of following order :

ORDER

I) Writ Petition is allowed in terms of Prayer Clause 'A' and 'B' reads thus:

“A) This Hon’ble Court may be pleased to issue appropriate writ, order or directions to hold and declare that the land Survey No.01/01/B, reservation no.36 for parking and reservation no.37 for shopping complex situated at

Kundalwadi, Tq. Biloli, Dist. Nanded is de-reserved and available for development and further direct them to publish the Notification in the Government Gazette to that effect.

B) This Hon'ble Court may be pleased to issue appropriate writ, order or directions to the respondents to de-reserve and release the Survey No.01/01/B reservation no.36 for parking and reservation no.37 for shopping complex situated at Kundalwadi, Tq. Biloli, Dist. Nanded from reservation and issue permission to develop the same in accordance with law."

ii) The Respondent/State shall issue necessary Notification, declaring the De-reservation of the land, within a period of Six (06) months from the date of this order.

(ABASAHEB D. SHINDE, J.)

(R.G. AVACHAT, J.)

vsj..