

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6805 OF 2021

Mr. Mohsin Miskeen Shaikh

Age 36 years, Occu. Business,

R/o. 48/25 C, Sahil Nagar,

Hotgi Road, Majrewadi, Solapur – 413 224.

... Petitioner

Versus

1. The State of Maharashtra

Through the Principal Secretary,

Urban Development Department,

Government of Maharashtra, Mantralaya,

Mumbai – 400 032.

2. The Solapur Municipal Corporation,

Indrabhuvan, Solapur – 413 001.

Through its Municipal Commissioner.

... Respondents

*Dr. Ramdas Sabban, Amol Kanaki, Shrikant Konpelli, Pravin Sabban,
Rohit Chitiken for the Petitioner.*

Mr. V. M. Mali AGP for the Respondent No.1-State.

Mr. R. S. Alange for the Respondent No. 2.

Coram : M. S. Karnik &
Sharmila U. Deshmukh, JJ.

Date : September 22, 2025.

JUDGMENT (Per : M. S. Karnik, J.)

1. Heard learned Counsel for the parties.
2. The Petition filed under Article 226 of the Constitution of India seeks the following reliefs:

“(a) This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, direction or order thereby holding & declaring that the petitioner's lands designated/ specified/ reserved for the Children Playground purposes under the Reservation no. 13/85 - area admeasuring 1400 sq. mtrs, situated at Plot No. 9/26 pt. old Survey No. 283/28/2A, New Survey No. 4/2B/2A, Majrewadi, Solapur, have lapsed as per the provisions u/s. 127 of the Maharashtra Regional & Town Planning Act, 1966, and further that the lands are released from said reservations, allotment or designation and have become available to the owner for the purpose of development as otherwise, permissible in the case of adjacent land under the Plan;

(b) This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, direction or order directing the respondent Government to forthwith notify the lapsing of reservation of said lands by an order published in the Official Gazette as required u/S. 127 (2) of the MRTP Act, 1966;

(c) This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, direction or order thereby holding & declaring that the petitioner's lands designated/ specified/ reserved for the Children Playground purposes under the Reservation no. 13/85 - area admeasuring 1400 sq. mtrs., situated at Plot No. 9/26

pt. old Survey No. 283/28/2A, New Survey No. 4/2B/2A, Majrewadi, Solapur, have lapsed as per the provisions u/s. 50 of the Maharashtra Regional & Town Planning Act, 1966, and further that the lands are released from said reservations, allotment or designation and have become available to the owner for the purpose of development as otherwise, permissible in the case of adjacent land under the Plan, in view of the Municipal Corporation resolution No.230, dt.20/11/2007 & Resolution No. 57 dt.07-06-2010 to delete land reservation, and in view of the NOC letter dt.14-03-2008 S.M.C. Sports officer, Solapur.

(d) This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, direction or order directing the respondent. Government to forthwith notify the lapsing of reservation of said lands by an order published in the Official Gazette as required u/S. 50 of the MRTP Act, 1966;

(e) This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, direction or order directing the respondent Municipal Corporation to grant the necessary development permission in the matter giving effect to the prayer clause-(a) above;”

3. Briefly stated, the facts of the case are that the Petitioner is owner of Plot No. 9/26 pt. Old Survey No. 283/2B/2A, New Survey No. 4/2B/2A, Majrewadi, Solapur (for short “***the said plot***”).

4. The State Government on 28th October, 2004 sanctioned Draft Development Plan for Solapur-1997-2017. It was brought in force with effect from 15th December, 2004. The said plot was shown under

reservation No. 13/85, for an area admeasuring 1400 sq.mtrs., for the purpose of children playground. The Petitioner issued notice under Section 127 of the Maharashtra Regional & Town Planning Act, 1966 (for short “*the MRTP Act*”) on 15th October, 2018. The said notice was received by the Respondent No. 2-the Solapur Municipal Corporation (for short “*Corporation*”) on 15th October, 2018.

5. It is the Petitioner’s case that in terms of provisions of sub Section (1) of Section 127 of the MRTP Act, since the land was not acquired within a period of 24 months from the date of service of such notice nor steps were commenced for its acquisition, the reservation has lapsed.

6. Mr. Alange, learned Counsel for the Respondent No. 2-Corporation submitted that the Petition deserves to be dismissed as the notice under Section 127 of the MRTP Act is pre-mature. According to learned Counsel for the Corporation it cannot be said that the Corporation has failed to acquire the land or take necessary steps as stipulated in Section 127 of the MRTP Act within a period of 24 months from the date of service of notice. He further points out that by communication dated 5th September, 2019, the Respondent No. 2-Corporation called upon the Petitioner to submit all the original documents.

7. Our attention is invited to the affidavit-in-reply filed by the Respondent No. 2-Corporation opposing the Petition. It is submitted that

the original documents were submitted by the Petitioner only on 5th October, 2019. According to Mr. Alange, the period of 24 months has to be reckoned from 5th October, 2019 and not from 15th October, 2018 and this Petition having being filed on 9^h September, 2021, is therefore premature. Mr. Alange further submitted that the Corporation intends to acquire the land for public purpose of children playground, however, it is for lack of funds that the same could not be acquired. It is submitted that this is the reason why the Respondent No. 2-Corporation could not acquire the land. The reason being genuine, the benefit of should go in favour of the Corporation as they intend to acquire the land *bona fide*.

8. We have heard learned Counsel for the parties.

9. Before we proceed to consider the rival submissions on merits, it would be pertinent to make reference to the provisions of Section 127 of the MRTP Act which 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.”

10. Let us test the application of Section 127 of the MRTP Act to the facts of the present case. There is no dispute that the sanctioned development plan for Solapur Municipal Corporation was brought into force on 15th December, 2004. The subject plot of land was shown under reservation for children playground. The notice under Section 127 of the MRTP Act was issued by the Petitioner on 15th October, 2018 which was received by the Corporation on the very same date. Along with notice, copies of the title documents were enclosed. It is only on 5th September, 2019 that the Corporation called upon the Petitioner to submit the original title documents. The original title documents were submitted by the Petitioner on 5th October, 2019. The requirement of Section 127 of the MRTP Act is that the owner or any person interested in the land may

serve the notice, along with the documents showing his title or interest in the said land on the Planning/Development Authority/Appropriate Authority.

11. In the present case, the Petitioner had infact submitted the title documents along with the notice. The documents were not original title documents, but xerox copies. On being called upon, the Petitioner immediately submitted the original title documents. The purpose of the original title documents was therefore limited to verifying the authenticity of the documents relied upon by the Petitioner while sending the notice under Section 127 showing his title or interest in the said plot. We find that the ownership is not disputed.

12. In our opinion, it cannot be said that the Petitioner has not complied with the requirement of Section 127 of the MRTP Act. We therefore do not agree with the contention of learned Counsel for the Respondent-Corporation that the date of service of the notice has to be reckoned from the date when the original title document was submitted by the Petitioner in the facts of the present case. According to us, the date of service of the purchase notice will have to be regarded as 15th October, 2018 on which date the Petitioner had duly served the notice as required under Section 127 of the MRTP Act along with documents showing his title or interest in the said land.

13. Further submission of learned Counsel for the Respondent-Corporation that the Corporation does not have sufficient funds cannot be regarded as a factor in favour of the Respondent-Corporation. The provisions of Section 127 will have to be given effect to once the conditions are satisfied. Learned Counsel for the Petitioner relied upon the decision of *Girnar Traders vs. State of Maharashtra*¹ in support of his submissions.

14. The Writ Petition is therefore allowed. The reservation of the said plot of land shall be deemed to have lapsed. The said plot shall be deemed to be released from such reservation and the same shall be available to the Petitioner for the purpose of development as otherwise permissible in the case of adjacent land under the said plan.

15. In terms of sub Section (2) of Section 127 of the MRTP Act, the State Government shall notify the lapsing of reservation by an order published in the official gazette.

16. Writ Petition stands disposed of.

17. In view of the disposal of Writ Petition, nothing survives for consideration in the pending Interim Application and the same stand disposed of.

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ASHOKRAO

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[Sharmila U. Deshmukh, J.]

1 (2007) 7 SCC 555

[M. S. Karnik, J.]