

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10724 OF 2022

1. Sudhir Annarao Thobade
Age-61, Occ.- Business,
R/O – 682, North Kasba, Solapur-413007.

2. Mr. Mahesh Annarao Thobade
Age-59, Occ- Business,
R/O – 682, North Kasba, Solapur-413007.

... Petitioners

Versus

1. The State of Maharashtra through
the Principal Secretary,
Urban Development Department, Government
of Maharashtra, Mantralaya, Mumbai-400032.

2. The Solapur Municipal Corporation,
Indrabhuvan, Solapur-413 001.
Through its Municipal Commissioner.

... Respondents

*Dr. Ramdas Sabban (thr VC), Amol A. Kanaki, Shrikant Kompelli and
Pravin Sabban for the Petitioner.*

Ms. T. J. Kapre, AGP for the Respondent No. 1-State.

Mr. Samir Kumbhakoni for the Respondent No. 2.

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

Date : October 14, 2025.

JUDGMENT (PER : Sharmila U. Deshmukh, J.)

1. Rule. Rule made returnable forthwith and with consent taken up

for final hearing.

2. The present Petition seeks direction of lapsing of reservation under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short "**MRTP Act**") in respect of subject land being area admeasuring 2967.25 sq. mtrs., situated at Sub Plot No. 1, out of Survey No.111, TP-IV, Kasbe Solapur, Taluka-North Solapur, District-Solapur.

3. The said land was reserved for parking purpose under Reservation Site No. 1/42 under the draft development plan of Solapur of 1997. On 28th October, 2004 the Government sanctioned the final development plan for Solapur which was brought into force from 15th December, 2004 and modified the same by order of 10th March, 2005. The subject land reserved at Site No. 1/42 for parking was relocated with adjoining Site No. 1/41 marked upto 40 mtr wide proposed D.P. road and remaining area of the Site No. 1/42 for parking was deleted and included in residential zone. As no steps were taken towards acquisition of the land within the prescribed period of 10 years, on 8th March, 2019, the Petitioner issued a purchase notice under Section 127 of the MRTP Act along with the relevant documents to demonstrate the ownership of the land i.e. 7/12 extract of the property, part plan and demarcation plan. By communication dated 18th March, 2019 the Corporation called for additional documents and offered TDR to the Petitioners. The additional

documents were submitted by the Petitioners on 24th May, 2019 and the refusal to accept the TDR was communicated to the Corporation. As the requisition of the purchase notice were not complied with, the present Petition has been filed seeking direction of lapsing of reservation.

4. Dr. Sabban, learned Counsel appearing for the Petitioners has taken this Court through the documents on record and would submit that initially under the draft development plan for the year 1997 to 2004, the Petitioners land was reserved for parking at Site No. 1/42 and after inviting suggestion and objections there was modification by which the reservation for parking at Site No. 1/42 was relocated with adjoining Site No. 1/41 marked up to 40 mtr wide proposed D. P. road. He submits that the Government sanctioned the development plan of Solapur which was brought into force from 15th December, 2004 and by sanction order dated 10th March, 2005, the modification as suggested was accepted. He would further submit that it is well settled that the land owner cannot be compelled to accept TDR in lieu of monetary compensation and by operation of law the reservation has lapsed.

5. Mr. Kumbhakoni, learned Counsel appearing for the Respondent No. 2-Corporation does not dispute the position that the land has not been acquired within the prescribed period. He would further submit that the reservation Site No. 1/42 was relocated to adjoining plot no. 1/41

however, the relocated reservation Site No. 1/42 continued on the Petitioners land.

6. Upon query by this Court Mr. Kumbhakoni, on instructions, would fairly submit that no benefit has been taken by the Petitioners and the relocated Site No. 1/42 was also on the Petitioners land.

7. We have considered the submissions and perused the record.

8. Section 127 of MRTP Act reads as under:

“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.”

9. The notice under Section 127(1) came to be issued by the Petitioner calling upon the Corporation to acquire the land for the

relocated parking Site No. 1/42 and despite expiry of the statutory period of 24 months the land was not acquired, nor any steps were commenced for its acquisition. The subject land was under reservation under the draft development plan of 1997 which came to be sanctioned in 2004 and the reserved site came to be relocated in 2005. For period of more than 10 years no steps were taken by the Corporation for acquisition of the land.

10. Upon failure to take necessary steps within the prescribed period for acquisition of land, the Petitioners who are the owner of the land issued the purchase notice and annexed the necessary documents showing their title in the said land. We have perused the purchase notice dated 8th March, 2017 and find that the notice complies with provisions of Section 127 (1) of MRTP Act. The contents of the notice indicates that the purchase notice has been issued for the relocated parking site. The reservation continues upon the Petitioner's land in respect of relocated parking site and no benefit has been taken by the Petitioners in form of TDR or compensation.

11. It is well settled proposition that the Petitioners cannot be compelled to accept TDR and the Petitioners are at liberty to insist on the consequence which flow from the failure to take the necessary steps as contemplated under Section 127 (1) of MRTP Act. As we find compliance of Section 127(1) of MRTP Act, the necessary consequence of lapsing of

reservation has to follow.

12. The Petition is therefore allowed.

13. The subject land reserved for parking purpose under the reservation Site No. 1/42 admeasuring 2967.25 sq. mtrs., situated at Sub Plot No. 1, out of Survey No.111, TP-IV, Kasbe Solapur, Taluka-North Solapur, District-Solapur has lapsed as per the provisions of Section 127 of the MRTP Act. The land is deemed to be released from the reservation and is available to the Petitioners for purpose of development as is permissible in the case of adjacent land under the plan.

14. The Respondent No. 1-State Government is directed to notify the lapsing of reservation in terms of Section 127(2) of MRTP Act by an order published in the official gazette.

15. The Petition is disposed of in the above terms.

[Sharmila U. Deshmukh, J.]

[M. S. Karnik, J.]

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SHUBHAM
ASHOKRAO

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