

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

WRIT PETITION NO. 16233 OF 2024

Prakash Chandappa Rebba.

...Petitioner.

Versus

The State of Maharashtra and Another.

...Respondents.

Dr. Ramdas Subban, Amol A. Kanaki, Shrikant Kampelli, Pravin Sabban, Rohit Chitiken for the Petitioner.

Mr. R. S. Alange for the Respondent-Corporation.

Mr. V. M. Shinde, AGP for the Respondent-State.

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

Date : September 22, 2025.

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

1. By this petition under Article 226 of the Constitution of India, the
Petitioners pray for following reliefs:

(a) This Hon'ble High 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 (a) Primary School purposes under the Reservation No.13/20-area admeasuring H-0=50 Ares out of the total land area admeasuring H-5=25 Ares (b) Shopping Center purposes under Reservation No.13/11, area admeasuring H-0=20 Ares out of the total land area admeasuring H-5=25 Ares situated at Survey No. 144/2/3/B1, Village Kasabe Solapur, Taluka-North Solapur, District-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 lands under the Plan;

(b) This Hon'ble High 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 MRTTP Act, 1966;

(c) This Hon'ble High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, direction or order directing the Respondent No.1 & the respondent No.2 Municipal Corporation to grant the necessary development permission in the matter giving effect forthwith to the prayer clause-(a) above from the date of the Hon'ble High Court orders by making appropriate markings as to the said lapsing on the said reserved lands"

2. Facts of the case, in brief, are that under the Draft Development Plan of Solapur-1997-2017, which was brought into force with effect from 15th December 2004, the Petitioner's land came to be reserved for primary school and Shopping Center being reservation site No.13/20 and 13/11 respectively.
3. Since the land was not acquired within the period of 10 years as contemplated by the provisions of Section 127 of the Maharashtra Regional and Town Planning Act, 1966 [for short "**MRTTP Act**"], the Petitioner issued purchase notice dated 12th September 2022 which was received by the Corporation on 13th September 2022. As per the requirement of Sub-Section (1) of Section 127 of MRTTP Act, along with purchase notice, Petitioner annexed copies of 7/12 extract, part development plan, Zone Certificate, Measurement Sheet, and Annexure-VI.
4. The Respondent-Corporation by letter dated 22nd May 2023

called upon the Petitioner to submit all relevant documents. It was further informed that the property under reservation can be developed as per UDCPR Rule 11.2.2 and TDR can be offered. The Petitioner replied to the Respondent-Corporation stating that he is not interested in TDR and demanded compensation and also submitted original of documents which the Petitioner was called upon to furnish.

5. Learned Counsel for the Respondent-Corporation invited our attention to the affidavit-in-reply filed on behalf of the Respondent-Corporation. It is submitted that due to financial crunch, the Respondent-Corporation is not in a position to pay the compensation. It is submitted that, therefore, the Respondent-Corporation offered TDR to the Petitioners, which Petitioners ought to have accepted in view of the provisions of Regulation 11.2.2 of the UDCPR and/or to undertake development through the Accommodation Reservation mechanism as per Regulation 11.1 and Table 11A of the UDCPR. It is submitted that the Respondent-Corporation has already shown its *bona fide* and willingness to grant TDR in respect of the said portion of the land to the Petitioner.

6. Heard learned counsel.

7. Section 127 of the MRTP Act needs to be reproduced for the facility of convenience 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.”

8. We are not inclined to accept the submissions of learned Counsel for the Respondent-Corporation. There is no dispute that Petitioner is the owner of the land in question. So far as the notice under Section 127 of MRTP Act is concerned, the land in question was not acquired within 10 years from the date on which the final development plan came into force nor a declaration under Sub-Section (6) or Sub-Section (4) of Section 126 of MRTP Act was published in the official gazette within a period of 10 years. As a result of this, the Petitioner who is the owner of the land in question, served a notice along with documents showing his title or interest in the said land, on the planning authority.

There is no dispute about the ownership of Petitioner. The notice was served in terms of Sub-Section (1) of Section 127 along with documents showing Petitioner's title and/or interest in the said land. There is thus compliance of Sub-Section (1) of Section 127 of MRTP Act.

9. Further, we do not find any merit in the contention of learned Counsel for the Respondent-Corporation that the Petitioner is obliged to accept TDR. There is no provision in the MRTP Act which mandates that offer of the Respondent-Corporation for accepting TDR has to be agreed to by the person issuing purchase notice under Sub-Section (1) of Section 127 of MRTP Act. Such an offer is not binding on the Petitioner. It is open for the Petitioner to turn down the offer and insist for the consequence of issuance of a valid purchase notice under Sub-Section (1) of Section 127 of MRTP Act.

10. Next ground which the learned Counsel for Respondent-Corporation urged is that reservation is in public interest and therefore financial crunch of the Respondent-Corporation is a factor which *bona fide* prevented the Corporation from acquiring the land and hence this should not be held against the Corporation. We see no merit in this submission. So long as the requirements of Sub-Section (1) of Section 127 of MRTP Act are fulfilled by the Petitioner, necessary consequence of lapsing of reservation has to follow.

11. The Writ Petition is, therefore, allowed. The reservation of the

said plot of land in respect of which relief is sought 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 case of adjacent land under the said plan.

12. 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.

13. Writ Petition stands disposed of. No order as to cost.

[Sharmila U. Deshmukh, J.]

[M. S. Karnik, J.]