



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.3047 OF 2023

PETITIONER(S) : 1) Ravi Raghoji Dudhe
Age @ 61 yrs, Occ: Agriculturist,
R/o. Baripura, Darwha, Tq. Darwha,
Dist. Yavatmal.

..VERSUS..

RESPONDENT(S) : 1) The State of Maharashtra,
Through its Secretary for Urban
Development Department, Mantralaya,
Mumbai.
: 2) The Municipal Council Darwha,
Through its Chief Officer, Darwha, Tq.
Darwha, Dist. Yavatmal.

Mr. Ganesh B. Mate, Advocate for Petitioner/s.
Ms Kalyani Marpakwar, AGP for the respondent No.1/State
Mr. S.M. Vaishav, Advocate for the respondent No.2

CORAM : **ANIL S. KILOR AND VRUSHALI V. JOSHI, JJ.**

DATE : **18.08.2025**

ORAL JUDGMENT : (Per : Anil S. Kilor, J.)

1. Heard.

2. **Rule.** The Rule is made returnable forthwith. Heard finally by consent of learned counsel for the respective parties.

3. By this petition, the petitioner is seeking declaration under Section 127 of the Maharashtra Regional & Town Planning Act, 1966 (for short “the MRTP Act”) on lapsing of

reservation of garden on the land, namely agricultural field Survey No.24/1, admeasuring 0.57 HR out of 1 Hectare 25 R of Darwha Khanda 1, Tahsil Darwha, District Yavatmal, owned by the petitioner.

4. It is the case of the petitioner that the respondent No.2 published a final development plan of Darwha City, showing the land in question reserved for garden on 13.07.2005.

5. The petitioner waited for 10 years for the steps to be taken towards acquisition of the said land. However, even after 14 years of the publication of the final development plan, no such steps were taken. Therefore, the petitioner issued notice under section 127 of the MRTP Act.

6. Despite service of the same, within 24 months, as stipulated under the MRTP Act, no steps were taken by the respondent No.2 to acquire the said land. Hence, this petition to declare the land in question as 'Dereserved'.

7. While opposing the present petition, the learned counsel for the respondent No.2 argues that the notice is not in

a proper format and therefore, it cannot be treated that the notice is under Section 127 of the MRTP Act.

8. In light of the rival submissions, we have perused the record.

9. At this juncture, it would be beneficial to refer to 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. From the language of Sub-section (1) of Section 127

of the MRTP Act, it is evident that the said provision stipulates as under:

(i) 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, under Section 127 for lapsing of reservation, if the land is not acquired by agreement or a declaration under sub-section (2) or (4) of section 126 is not published in the Official Gazette within ten years from the date on which a final Regional plan, or final Development plan comes into force, to acquire the land within 24 months from the service of notice.

(ii) Such provision further makes it clear that on failure of authority to take steps within such period, the allotment or designation shall be deemed to have lapsed and thereupon, the land shall be deemed to be released from such reservation and the land shall become available to the owner for the purpose of development, as otherwise permissible in the case of adjacent land under the relevant plan.

11. Further, Sub-section (2) of Section 127 makes it clear that the Government shall notify such lapsing of reservation by an order published in the Official Gazette.

12. The notice under Section 127 of the MRTP Act issued by the petitioner clearly indicates that in the subject of the notice itself there is a mention that the notice is under Section 127 of the MRTP Act. In the notice there is a clear mention about his ownership, survey number of land, total area, date of publication of final development plan, the period lapsed after publication of the final development plan. To show his ownership, as required and stipulated under section 127(1) of the MRTP Act, the petitioner submitted 7/12 extract of the land along his notice.

13. In the circumstances, once there is no dispute about the ownership and submission of title documents along with such notice and further there is no dispute about the fact that after publication of the final development plan, within 10 years the land was not acquired. On failure of the respondent No.2 to acquire the land by way of agreement or under sub-sections (2)

and (4) of the 126 of the MRTP Act within 24 months from the date of service of notice under Section 127 issued by the petitioner, the land in question i.e. the agricultural field Survey No.24(1) is deemed to have de-reserved. Accordingly, we pass the following order :

- (i) The writ petition is **allowed**.
- (ii) We hereby declare that Reservation No.3 on the agricultural land admeasuring 57 H.R. bearing Survey No.24(1), situated at Dwarwa Khanda No.1, Tahsil Darwha, District Yavatmal, owned by the petitioner, and reserved under Notification dated 13.07.2005, has lapsed in terms of Section 127 of the Maharashtra Regional & Town Planning Act, 1966.
- (iii) The respondent No.1/the State of Maharashtra is directed to take action under Sub-section (2) of Section 127 of the MRTP Act, to publish notification.

Rule accordingly.

(VRUSHALI V. JOSHI, J.)

(ANIL S. KILOR, J.)