



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

WRIT PETITION NO.2012 OF 2024

Ganesh Hanuwantrao Kaple
Age 56 yrs, Occ: Agriculturist,
R/o Bilanpura, Achalpur, Tq. Achalpur,
Dist. Amravati.

.....PETITIONER

...V E R S U S...

1. The State of Maharashtra through
The Director of Town Planning,
State of Maharashtra, Central Building,
Pune-1.
2. The Municipal Council,
Achalpur, through its Chief Officer,
Achalpur, Tq. Achalpur,
Dist. Amravati.

...RESPONDENTS

Shri R.G. Mundhada, Advocate for petitioner.
Ms Deepali Sapkal, AGP for respondent no.1.
Shri Y.S. Jaiswal, Advocate for respondent no.2.

CORAM:- SMT. M.S. JAWALKAR & M.W. CHANDWANI, JJ.
DATED :- 12.06.2025

ORAL JUDGMENT: (Per : M.W. Chandwani, J.)

. **Rule.** Rule made returnable forthwith. Heard finally by
consent of the parties.

2. The petition seeks to impose deeming fiction provided under
Section 127 of the Maharashtra Regional Town Planning Act, 1966
(for short “MRTP Act”).

3. The petitioner is the owner of the land Survey No.20/2 admeasuring 1.04 HR pot-kharab area 0.07 HR total admeasuring 1.11 HR of Mouza Kehtapmali, Tehsil Achalpur, District Amravati. The revised development plan for the city of Achalpur was notified in Government Gazette on 01.03.2003 showing that the land of the petitioner is reserved for the purpose of construction of a garden wide Reservation No.62 and for a 12 meter wide DP road. No steps were taken to acquire the land and to develop the land for the purpose for which it was reserved in the Development Plan dated 01.03.2003.

4. Therefore, the petitioner issued a statutory notice dated 09.11.2020 asking the respondent no.2-Planning Authority to acquire the said land for the purpose of development. In spite of service of notice, no steps were taken by respondent no.2 – Planning Authority. Since, no steps were taken, the present writ petition came to be filed.

5. Respondent no.2 filed its reply thereby raising an objection that the document of title as well as the original measurement-sheet have not been supplied by the petitioner.

6. Learned counsel for the petitioner has drawn our attention towards the reply to the RTI application given by

respondent no.2, wherein it has been mentioned that the petitioner has supplied the copy of notice alongwith 7/12 extract as well as copy of measurement, which itself falsifies the stand taken by respondent no.2 in its reply. That apart, it is not necessary for the petitioner to supply the copy of original measurement sheet since the requirement under Section 127 of the MRTP Act is to supply the documents showing interest. Therefore, the objection raised by respondent no.2 in its reply does not survive.

7. The ownership of the petitioner and issuance of notice dated 09.11.2020 has not been disputed. It is a matter of record that no steps have been taken by respondent no.2 till date to acquire the land for the purpose of development of the garden as shown in the DP plan. Therefore, the necessary consequences will follow and by deeming fiction, the land of the petitioner is free from Reservation No.62. Therefore, we find substance in the argument of the learned counsel for the petitioner.

8. In view of above, we are inclined to allow the writ petition and pass the following order:

(i) The Writ Petition is allowed.

(ii) It is declared that the reservation No.62 on the land of the petitioner total admeasuring 1.11 HR of Survey No.20/2 of Mouza Kehtapmali, Tehsil Achalpur, District Amravati stands lapsed and the petitioner is free to develop the said land owned by him in the manner permissible to the adjacent land as per the Development Plan of city of Achalpur.

(iii) The respondents are directed to notify and publish the same in the official gazette within three months from today.

(iv) Rule is made absolute in the aforesaid terms. No costs.

(M.W. CHANDWANI, J.)

(SMT. M.S. JAWALKAR, J.)

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