



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

WRIT PETITION NO. 2090 OF 2024

1. Anil Maroti Tikle,
Age 62 years, Occupation-Agriculture,
2. Chandrakant Maroti Tikle,
Age 52 years, Occupation-Agriculture
1 and 2 R/o Nandanwan Square, Near
Anand Nursery, Nagpur
3. Paresh Shridhar Tikle, Age 42 years,
Occupation – Agriculture & Business
R/o Telipura Chowk, District
Chandrapur

...Petitioners

// VERSUS //

1. The State of Maharashtra through the
Director of Town Planning, State of
Maharashtra, Central Building, Pune
2. The Municipal Council (M.C)/Nagar
Parishad through its Chief Officer at
Bhandrawati, Tq. Bhandrawati, District
Chandrapur
3. Assistant Town Planner Chandrapur,
Town Planning and Valuation Office,
Chandrapur, 2nd Floor, Room No.23,
Branch Office, Prashaskiy Building,
Chandrapur

... Respondents

Shri G.K.Mundhada, Advocate for the petitioners.

Shri A.M.Joshi, AGP for the respondent/State.

Shri M.I.Dhatrak, Advocate for the respondent no.2.

CORAM : SMT. M.S.JAWALKAR &
PRAVIN S. PATIL, JJ.

DATED : 8th AUGUST, 2025.

ORAL JUDGMENT : (PER : PRAVIN S. PATIL, J.)

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

2. By this petition, the petitioners made following prayers in the petition.

A. Declare that the reservation of Garden vide Reservation no.32 affecting the land owned by the petitioners bearing survey no. 35 area admeasuring 2.02 H.R. of village Ghutkala, Tq. Bhandrawati, District Chandrapur has lapsed under Section 49(7) of the Maharashtra Regional and Town Planning Act, 1966 as complete proposal u/s 126 of MRTP Act has not been submitted to The Collector Chandrapur u/s 49(4) of MRTP Act and that the petitioners are free to develop the land owned by him in the manner permissible to adjacent land as per Development Plan.

B. Grant any other relief which this Hon'ble Court deems fit and proper in the facts and circumstances of the present case and in the interest of justice.

C. Declare that the reservation for Garden vide Reservation no.32 affecting the land owned by the petitioners bearing survey no. 35 area admeasuring 2.02 H.R of village Ghutkala, Tq. Bhandrawati, Dist. Chandrapur has lapsed u/s 127 of the MRTP Act, 1966 and that the petitioner is free to develop the land owned by him in the manner permissible to adjacent land as per Development Plan of Bhandrawati City.

D. Direct the respondents to notify and publish in the official Gazette notification u/s 127 sub-Section (2) of the lapsing of the reservation for Garden vide Reservation no. 32, affecting the land owned by the petitioners bearing survey no. 35 area admeasuring 2.02 H.R. of village Ghutkala, Tq. Bhandrawati, Dist. Chandrapur within eight weeks or as period as may be specified by this Hon'ble Court.

3. The petitioners however restricted their prayer only to under clause (C) & (D), whereby declaration and direction were sought that the reservation for garden vide reservation no.32 affected the land owned by the petitioners bearing survey no. 35 area admeasuring 2.02 H.R. of village Ghutkala, Tq. Bhandrawati, District Chandrapur has been lapsed under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred as "MRTP Act, 1966") and thereby direct the respondents to notify and publish the same in the official gazette under Section 127 of the MRTP Act, 1966. It is also pointed out that this prayers were amended as per order of this Court dated 3rd March, 2025.

4. It is admitted fact in the present petition, petitioners are the owners and persons interested in development of the land bearing survey no. 35, having total area 2.02 H.R. of village Ghutkala. The respondent nos. 2 and 3 issued the final development plan of Bhandrawati City under

Section 31(1) of the MRTP Act, 1966 and the same came into operation with effect from 20th June, 2012. In the said development plan, the land owned by the petitioners was affected by the reservation of Garden vide reservation no.32.

5. It is stated by the petitioners that 10 years period after issuing the notification was expired on 22nd June, 2022. However, during this period of 10 years, no steps were taken by the respondents for acquiring the land as well as no development has been done at the instance of respondent nos. 2 and 3.

6. In the circumstances, on 22nd June, 2022 petitioner issued purchase notice under Section 127 of the MRTP Act, 1966 to the respondents which was accompanied with 7/12 extracts, Talathi Map, Measurement Sheet, Part plan. The said notice was duly served upon the respondents on 27th June, 2022.

7. After issuing purchase notice under Section 127 of MRTP Act, 1966, it is obligatory on the part of respondents to take necessary steps to acquire the land within a period of 24 months. It is further stated that the respondent nos. 2 failed to take steps to acquire the land on the

excuse that as per their priority list the scheme based namely 'Bhandrawati City Extended Water Supply Scheme', 'Lendara Lake Deepening, Purification and Rehabilitation' and 'Bhadrawati City Sewerage Scheme', were necessary as these scheme pertains to the basic needs of people. As such, respondent no.2 failed to acquire the land for development of Garden. Hence, petitioners are entitled for benefit of Section 127(2) of MRTP Act, 1966 for declaration of lapsing of reserved land.

8. In response to the notices issued by this Court, the respondent nos. 2 and 3 filed their written submission and stated that the purchase notice under Section 127 of the MRTP Act, 1966 was not issued by the petitioners but the same was issued through Advocate and therefore, the same is not acceptable under the provisions of Section 127 of the MRTP Act, 1966. It is pointed out that purchase notice was issued on 22nd June, 2022 which was received by them on 27th June, 2022, however, petition came to be filed on 18th March 2024 i.e. before completion of 24 months period, which according to them premature petition. Hence, on these two grounds oppose the petition.

9. We have heard both the parties at length and considered the rival submissions before us.

10. It is pertinent to note that petitioners while filing the present petition on 18th March, 2024 has initially sought declaration as per prayer clause (A) which is reproduced above, that reservation of Garden vide reservation no.32 of the land owned by them be declared as lapsed under Section 49(7) of the MRTP Act, 1966. At that time, there was no prayer was made to declare the said land as lapsed under Section 127 of the MRTP Act, 1966.

11. It is clear from the record that after expiry of 24 months of issuing purchase notice, petitioners sought amendment to the petition and the same was allowed by this Court vide order dated 3rd March, 2025. Accordingly, prayer clauses (C) and (D) were inserted to the extent that reservation of Garden vide reservation no.32 over the land owned by the petitioners be declared as lapsed under Section 127 of the MRTP Act, 1966. In view of this fact which is not in dispute, we are of the opinion that petition cannot be said to be premature.

12. In respect of submission of the respondents that notice was issued by Advocate and not personally by the petitioners, therefore, same is invalid. We have perused the purchase notice issued under Section 127 of the MRTP Act, 1966 dated 22nd June, 2022, clearly shows that petitioners have engaged the counsel and accordingly by invoking the provisions under Sections 29 and 32 of Advocates Act, 1961, the notice was issued through counsel to the respondents. Hence, according to us, once the instructions were given to the Advocate and with that authority and instructions, notice has been issued under Section 127 of MRTP Act, 1966, same cannot be faulted merely on the ground that same was issued by the Advocate. Our submission is fortified by the judgment of this Court in the case of Amravati Land Developer Vs. State of Maharashtra and others (Writ Petition No. 8031 of 2018 decided on 15th September, 2022), wherein this issue has been considered by this Court and held that Advocate is empowered in such circumstances to issue the purchase notice. Hence, we are of the opinion that, petition cannot be rejected on the grounds raised by respondent no.2.

13. Now, moving to the merits of the matter, we clearly seen from the record that notice under Section 127 of the MRTP Act, 1996, was duly served on the respondents on 27th June, 2022. The period of 24 months was expired on 27th June, 2024, but during this period no steps were taken for acquisition of the land by the respondents as contemplated under Section 127 of the MRTP Act, 1966. Thus, once it is proved that respondents failed to acquire the land as per the development plan, the petitioners got statutory right to get declaration of lapsing of reservation and developed the same on their own.

14. It is further clear from affidavit of respondent nos. 1 and 3 dated 19th August, 2024 wherein it is categorically stated that respondent no.1 not received any proposal with respect of statutory notice under Section 127(2) of MRTP Act, 1966 issued by petitioners from respondent no.2.

15. In the circumstances, we are of the opinion that as respondents failed to take necessary steps for acquiring the reserved land within a period of 24 months, after the receipt of statutory notice under Section 127(2) of MRTP Act, 1966. We hold that land owned by the

petitioners deserves to be declared as lapsed. Accordingly, we pass the following order.

- i. The writ petition is allowed;
- ii. It is hereby declared that the land owned by the petitioners bearing survey no. 35 area admeasuring 2.02 H.R. of village Ghutkala, Tq. Bhandrawati, District Chandrapur, which was reserved for reservation of Garden vide Reservation no.32 vide development plan dated 20th June, 2012 is hereby declared as lapsed.
- iii. The respondents are directed to publish the required notification in the official gazette under Section 127(2) of the MRTP Act, 1966 for lapsing of the reservation of Garden vide Reservation no. 32, affecting the land owned by the petitioners bearing survey no. 35 area admeasuring 2.02 H.R. of village Ghutkala, Tq. Bhandrawati, Dist. Chandrapur within a period of eight weeks.

Writ petition is disposed of in aforesaid terms. No order as to costs.

[PRAVIN S. PATIL, J.]

[SMT. M.S.JAWALKAR, J.]