



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

WRIT PETITION NO.6438 OF 2024

Sukhvindarsingh Dilbagsingh Bhatti,
Age 54 years, Occ: Business,
R/o Plot no. 35, Laxminagar, Wadgaon,
Chandrapur, Tq. & Dist. Chandrapur
pin – 442401. **PETITIONER**

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

1. The State of Maharashtra through The Secretary,
Urban Development Department, State of
Maharashtra, Mantralaya, Mumbai.
2. The Maharashtra Housing and Area Development
Authority (MHADA), through its Chief Officer,
Civil Line, Temple Road, Raja-Rani Chowk,
Near Aamdar Nivas, Nagpur. **RESPONDENTS**

Shri G. K. Mundhada, Advocate for Petitioner.
Mrs. S. S. Jachak, Additional Government Pleader for
Respondent No.1/State.
Shri P. P. Kothari, Advocate for Respondent No.2.

CORAM: **SMT. M. S. JAWALKAR AND RAJ D. WAKODE, JJ.**

DATE OF RESERVING THE JUDGMENT : 04.09.2025
DATE OF PRONOUNCING THE JUDGMENT : 11.09.2025

JUDGMENT: (PER RAJ D. WAKODE, J.)

1. Heard.
2. Rule. Rule returnable forthwith with the consent of
the parties.

3. Heard Shri G. K. Mundhada, Advocate for the petitioner, Mrs. S. S. Jachak, Additional Government Pleader for respondent No.1 and Shri P. P. Kothari, Advocate for respondent No.2.

4. That the petitioner has approached this Court praying for declaration that the reservation of Institute vide Reservation No.144 affecting land bearing Survey No.228 area admeasuring 0.20 HR of Mouza Datala, Tahsil and District Chandrapur has lapsed under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 and that the petitioner is free to develop the land owned by him in the manner permissible to adjacent land as per Regional Development Plan of Chandrapur-Ballarpur region. That the petitioner has also sought further direction to the respondents to notify and publish in the official gazette, notification of the lapsing of reservation under Section 127 sub-Section (2) of the Maharashtra Regional and Town Planning Act, 1966 and declare that the reservation of the aforesaid land has lapsed within a period of eight weeks as directed by this Court.

5. The genesis of the present petition arises from the following undisputed facts. The land in question i.e. Survey No.228 total admeasuring 0.20 HR of Mouza Datala, Tahsil and District Chandrapur (hereinafter referred to as the aforesaid land)

was originally owned by Shri Prakash Narayanrao Penchalwar. The petitioner has become owner of the said property by way of execution of the agreement to sale registered in the office of Sub-Registrar, Chandrapur for a valuable consideration of Rs.31,50,000/- (Thirty One Lakh Fifty Thousand only) vide document registered at Sr. No.8242/2023 dated 13.11.2023. The copy of the Index-II of the aforesaid registered document is placed by he petitioner on record as Annexure-A at record page 15.

6. That the aforesaid land was reserved for the purpose of Institute by the respondent No.2. That the respondent No.2 Maharashtra Housing and Area Development Authority (hereinafter referred to as MHADA for the sake brevity) was appointed as 'Special Planning Authority' under Section 40(1)(b) of the MRTP Act for New Chandrapur area vide a notification published in the Government Gazette on 08.04.1993. That the respondent No.2 on 28.12.1993 submitted Draft Development Plan under Section 30 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as 'the aforesaid Act' for the sake of brevity) for sanction with the respondent No.1. That the Draft Development Plan was sanctioned vide Government Notification dated 30.06.1998 and the said notification came into

force after its sanction on 01.09.1998 and the aforesaid land was reserved for the purpose of Institute vide Reservation No.144.

7. It is revealed from the pleadings on record that though the aforesaid land was reserved on 30.06.1998, no steps were taken by the respondent No.2 for either acquisition or development of the aforesaid land from the period of almost twenty three years and hence the original owner Prakash Narayanrao Penchalwar, who was interested in the development of the aforesaid land on 12.10.2021 issued Purchase Notice under Section 127 of the aforesaid Act to the respondent No.2. That the aforesaid Notice was served personally along with the documents such as 7/12 extract and patwari map on 12.10.2021, the copy of which is also placed on record by the petitioner as Annexure-B at record page 16. That by virtue of the aforesaid notice the owner of the aforesaid land called upon the respondent No.2 to acquire the said land within the statutory period of twenty four months from the date of receipt of said notice or else to remove the reservation under Section 127 of the aforesaid Act.

8. It is worth mention here that Shri Prakash Narayanrao Penchalwar, who was the original owner of the aforesaid land in view of his financial difficulty sold the aforesaid land to the petitioner for a consideration of Rs.31,50,000/- and thus the

present petitioner became the person interested in the aforesaid land and steps into the shoes of the original owner. That the aforesaid purchase notice was served upon the respondent No.2 on 12.10.2021 and even after passage of more than three years the respondent No.2 did nothing in the matter either to acquire the aforesaid land or to purchase the same and hence the petitioner approached this Court by filing the present petition seeking the declaration as to the lapsing of reservation of the aforesaid land.

9. The respondent No.2 after the service of notice issued by this Court appeared and file its submission on 16.07.2025. The respondent No.2 mainly opposed the present petition on two grounds. First, that the present petition is not maintainable at the behest of the present petitioner as he has no locus to file the present petition. It is submitted that the notice dated 12.10.2021 was issued by one Shri Prakash Narayanrao Penchalwar and he is not party and he is not the petitioner in the present petition and hence the present petition is not maintainable. Secondly, the respondent No.2 also contended that the respondent No.2 has demanded an amount of Rs.52 Crores to the State Government for the purpose of acquisition and thus the present respondent has taken steps for acquisition and as soon as the amount is received from the State Government the same would be paid to the

respective owner and therefore, it cannot be said that the reservation has lapsed. According to the learned Counsel Shri P. P. Kothari, Advocate appearing for the respondent No.2 in view of the aforesaid submission, the present petition is devoid of merit and deserves to be dismissed by this Court.

10. So far as the first contention as raised by the respondent No.2 as to the locus of the present petition is concerned, the said issue is already decided by this Court in the case of ***Satish s/o Soma Bhole & Others v. State of Maharashtra & Others*** reported in ***2010 (6) ALL MR 65***. In the said judgment this Court has held that the notice issued by the predecessor-in-title would not dis-entitle the purchaser of the property to seek the benefit of the provisions of Section 127 of the MRTP Act. It is held in the judgment that once the notice has been issued under Section 127 of the MRTP Act, the time would not stop running by the sale of the property by the owner. Thus, it is submitted that merely because the petitioner has not issued the notice is not sufficient to deny him the benefit of Section 127 of the aforesaid Act. It is an admitted fact that the purchase notice was duly served upon the respondent No.2 on 12.10.2021 and even after the passage of three years no steps have been taken by the respondent No.2 for acquisition of the aforesaid land, and therefore, the

petitioner is entitled for the relief. Thus, the first objection raised by the respondent No.2 as to the maintainability of the present petition at the behest of the petitioner i.e. the subsequent purchaser is unsustainable in the eyes of law. Similar view has been taken by this Court in the case of ***Rajesh Sampatlal Daga and another v. The State of Maharashtra and another*** in ***Writ Petition No.5828/2024*** and in the case of ***Vikramsinh Jaysingrao Ghatge Kagal v. Municipal Council Kagal*** reported in ***2015 1 ALL MR 520*** relied upon by the present petitioner.

11. So far as the contention raised by the respondent No.2 as to the demand of Rs.52 Crores made to the State Government for the purpose of acquisition and thus according to the present respondent No.2 they have taken steps for acquisition and hence the reservation cannot be said to have lapsed is also being recorded only for the purpose of rejecting the same. It is an admitted position on record that the aforesaid land was reserved for the purpose of Institute vide Reservation No.144 w.e.f. 01.09.1998. That the stipulated period of ten years as provided in Section 127 of the aforesaid Act lapsed on 31.08.2008. That the Purchase Notice under Section 127 was issued by the owner of the aforesaid land on 12.10.2021. That the statutory period of twenty four months as provided under Section 127(1) of the aforesaid Act

from the date of service of such notice expired on 11.10.2023. That the respondent No.2 though alleges that a demand has been made to the State Government for the compensation amount but the fact remains that within the statutory period of twenty four months no declaration under sub-Section (2) or (4) of Section 126 is published in the Official Gazette within the statutory period. Section 126(2) of the aforesaid Act clearly provides that if the State Government is satisfied that the land specified is needed for the public purpose, it may make a declaration to that effect in the official gazette in the manner provided in Section 19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in respect of the said land. Admittedly, no such declaration have been made by the respondent within the statutory period of twenty four months from the date of service of notice and thus the provisions of Section 127 of the aforesaid Act would come into play and the reservation of the aforesaid land should lapse. In the light of the principles underlining under Section 127 of the aforesaid Act, the reservation shall be deemed to have lapsed if no steps are taken for acquisition of the aforesaid land within the prescribed period. Admittedly, in the present case the respondents have not taken any steps to issue notification after receipt of the notice. Thus, the second objection

raised by the present respondent No.2 is also unsustainable in the eyes of law and deserves to be rejected by this Court.

12. In the light of the above discussion and well settled legal position, we find that the reservation for the aforesaid land has lapsed under Section 127 sub-Section (2) of the aforesaid Act on expiry of twenty four months from 12.10.2021. Hence, the petitioner is entitled for the relief of direction to permit him to develop the land as prayed for by him which was subjected for reservation. In that view of the matter, we proceed to pass following order:

ORDER

[i] The writ petition is allowed.

[ii] It is declared that the reservation of Institute vide reservation No.144 affecting land bearing Survey No.228, area admeasuring 0.20 HR of Mouza Datala, Tahsil and District Chandrapur has lapsed under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 and the petitioner is free to develop the aforesaid land in the manner permissible to the adjacent land as per Regional Development Plan of Chandrapur-Ballarpur Region.

[iii] The respondent No.2 shall within a period of eight weeks from the receipt of the copy of this judgment be published in the Official Gazette the notification of the lapsing of reservation under Section 127 sub-Section (2) of the aforesaid Act and declare that the reservation of Institute vide Reservation No.144 affecting land bearing Survey No.228, area admeasuring 0.20 HR of Mouza Datala, Tahsil and District Chandrapur has lapsed.

13. The rule is made absolute in the aforesaid terms.
No costs.

(RAJ D. WAKODE, J.)

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