



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

WRIT PETITION NO. 7376 OF 2024

Suresh Balkrishna Kayarkar,
Aged 65 years, Occupation : Retired
R/o Killa Ward, Mearmurlidhar
Temple, Gandhi Square, Bellarpur, Tq.
Ballarpur, District Chandrapur Pin
442701

...Petitioner

// VERSUS //

1. The State of Maharashtra through the Director of Town Planning, State of Maharashtra, Central Building, Pune-1
2. The Municipal Council (M.C) / Nagar Parishad, Ballarpur through its Chief Officer, Tq. Ballarpur, Dist. Chandrapur.
3. The Assistant Director Town Planner Chandrapur, Town Planning & Valuation Office, Chandrapur, Branch Office, Prashaskiy Building, 2nd Floor, Room No. 23, Chandrapur, pin 442101.

... Respondents

Shri G.K.Mundhada, Advocate for the petitioner.
Ms. D.V.Sapkal, AGP for the respondent no. 1/State.
Ms. Komal Satpute, 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. Petitioner is seeking declaration of lapsing to the reservation of Shopping Center bearing reservation no. 34 affected thereby area admeasuring 1300 sq. mtr. out of land owned by the petitioner.

3. The petitioner is the owner of the land survey no. 32/96 admeasuring 1300 square meter of Mouza Ballarpur, Tq. Ballarpur, District Chandrapur. The respondent – Municipal Council vide his development plan dated 16th August, 2005 reserved the land owned by the petitioner admeasuring area 1300 square meter which was shown for the purpose of shopping center vide reservation no.34. The said development plan came into operation with effect from 1st October, 2005. However, no steps were taken to acquire the land for a period of 10 years under development plan.

4. After the expiry of period of 10 years, petitioner personally issued purchased notice under Section 127 of the Maharashtra Regional

Town Planning Act, 1966 (hereinafter referred as MRTP Act, 1966), to the respondent no.2 along with the documents i.e. 7/12 extract to demonstrate that he is the owner of the land. The said notice was duly received and not disputed by the respondents.

5. After receipt of notice, the respondent no.2 in its general meeting dated 13th July, 2023 vide resolution no. 2 decided to initiate acquisition proceeding to acquire the land and proposal was forwarded to the Collector on 17th July, 2023 and 2nd January, 2024 to initiate acquisition proceeding. However, respondent nos. 1 and 3 in their affidavit stated that, respondent no.1 was not in receipt of proposal as per Section 27(2) of the said MRTP Act, 1966.

But the fact remains that within 24 months, no steps were taken to acquire reserved land own by petitioner. Hence, petitioner filed present petition for seeking declaration of lapsing of land.

6. Respondent no.2 stated that after receipt of purchase notice, it is found that same was not accompanied by measurement sheet of land. The same was submitted by petitioner on 10th July, 2024. Thereafter, twice on 17th July, 2023 and 2nd January, 2024, proposal of acquisition

was forwarded to Collector. However, the procedure of acquisition was not completed by respondent no.1 in the matter.

7. Per contra, respondent nos. 1 and 3 stated that it is the sole responsibility of respondent no. 2 to initiate land acquisition proceeding in the capacity of appropriate Authority, under Section 127 of the MRTP Act, 1966. It is solemnly stated that respondent no.1 not in receipt of proposal from respondent no.2 as per provisions of Section 127(2) of the MRTP Act, 1966. Hence, both have made contrary statement against each other in the matter, in respect of proposal of acquisition of land.

8. In the circumstances, petitioner filed present petition for seeking declaration of lapsing of reservation land under Section 127 of MRTP Act, 1966.

9. In support of the submission, learned counsel for the petitioner has rightly relied upon the judgment of this Court in Writ Petition 8351 of 2023 (Markhandey Uddhavrao Bonde and others Vs. State of Maharashtra and others) wherein identical issue in respect of lapsing of reservation of land was under consideration. This Court while dealing with the issue has considered the entire aspect and particularly the

defence put forth by respondents in the matter. It will be relevant to reproduce paragraphs 4, 5 and 6 as under:

4. The respondents resisted the petition. The proposal for acquisition of land was already forwarded. Moreover, the petitioners have not submitted the measurement map and thus, it was incomplete notice. The learned counsel appearing for petitioner relied on the decision of this Court in case of Raju s/o Jagan Gannar & ors. Vs. State of Maharashtra & ors. (Writ Petition No. 4173/2022, decided on 08.09.2023) which has dealt the similar issue. This Court by relying on the decision of the Supreme Court in case of Girnar Traders Vs. State of Maharashtra (2007) 7 SCC 555 has ruled that forwarding of proposal to the Collector does not amount to take step towards acquisition. The relevant portion of the decision in paras 7 and 8 reads as under:-

“7. In this regard the law is settled by the various pronouncements of this Court as well as of the Supreme Court. In the case of Girnar Traders Vs. State of Maharashtra [(2007) 7 SCC 555], the Hon’ble Apex Court held as under:-

57. It may also be noted that the legislature while enacting Section 127 has deliberately used the word "steps" (in plural and not in singular) which are required to be taken for acquisition of the land. On construction of Section 126 which provides for acquisition of the land under the MRTP Act, it is apparent that the steps for acquisition of the land would be issuance of the declaration under section 6 of the LA Act. Clause (c) of Section 126 (1) merely provides for a mode by which the State Government can be requested for the acquisition of the land under section 6 of the LA Act. The making of an application to the State Government for acquisition of the land would not be a step for acquisition of the land under reservation. Sub-section (2) of section 126 leaves it open to the State Government either to permit the acquisition or not to permit, considering the public purpose for which the acquisition is sought for by the authorities. Thus the step towards acquisition would really commence when

the State Government permits the acquisition and as a result thereof publishes the declaration under Section 6 of the LA Act.

8. In view of the settled law that mere sending of proposal to the Land Acquisition Authority does not amount to taking up steps for acquisition of land, and since, the statutory period of 24 months, as envisaged under Section 127 of the MRTP Act from the date of purchase notice, is already lapsed and no steps for acquisition of the land is taken by respondent no. 4, therefore deeming fiction of lapsing of reservation on the said land of the petitioner has to follow.”

5. In the decision of Raju s/o Jagan Gannar (supra), this Court has also negatived the demand of measurement map stating that it is not a legal requirement. The said observation in para 10 of the decision as below:-

“10. It is pertinent to note here that in view of the decision in the cases of Anil Mohanlal Vyas Vs. The State of Maharashtra (Writ Petition No. 4498/2019, decided on 23.01.2020) and Jaika Vanijye Ltd. Vs. State of Maharashtra [(2014) 1 All MR 136], wherein this Court negatived the demand of measurement map alongwith the purchase notice by holding that it is not a requirement under Section 127 of the MRTP Act, we do not find force in the argument of the learned counsel for respondent no. 4. We also do not find force in the argument of learned counsel for respondent no. 4 that 7/12 extract, which was annexed with the notice, is not a document showing interest in the land.”

6. The learned AGP has relied on the decision of this Court in case of Sau. Alka Dilip Dabhade & anr. Vs. The State of Maharashtra & ors, (Writ Petition No. 671/2020, decided on 15.06.2020) to contend that sanction demarcated lay-out map has not been submitted. However the same is not a legal requirement in terms of Section 127 of the MRTP Act. The said decision being on different facts, would not assist in any manner. Reliance is also placed on the decision of this Court in case of Prashant s/o Vijaykumar Shet & anr. Vs. The State of Maharashtra & ors. (Writ Petition No. 6481/2015 decided on 19.11.2015). In the said case, no documents showing title of petitioner in the land have been tendered, which is not a case here.

10. In the present matter, respondent no.2 after receipt of purchase notice, demanded measurement sheet of land from petitioner and same was submitted by petitioner on 10th July, 2024. Respondent no.2 at the one hand stated that, his office twice submitted proposal to respondent no.1 after receipt of purchase notice i.e. on 17th July, 2023 and 2nd January, 2024. On the other hand, respondent no.1 states that his office was not in receipt of any proposal under Section 127(2) of the MRTP Act, 1966 from respondent no.2. In the circumstances, fact remains that no steps were taken to acquire the land. Hence, petitioner is entitle for the statutory benefit under Section 127 of the MRTP Act, 1966.

11. It is admitted fact that in the present matter, purchase notice was served on the respondents on 29th November, 2022 and the period of 24 months was expired on 28th November, 2022. But during that period of 24 months, no steps in respect of land in question has been taken for acquisition as required under Section 27 of the MRTP Act, 1966.

So also, this Court in identical facts, held that in such circumstances interested person is entitled for benefit of statutory provisions of MRTP Act, 1966.

12. In that view of the matter, we are of the considered opinion that the petitioner is entitled for the reliefs as sought in the petition. Accordingly, we pass the following order.

- i. The writ petition is allowed;
- ii. It is hereby declared that the reservation for Shopping Center vide reservation no. 34 affected area admeasuring 1300 sq. mtr. Out of land owned by the petitioner of Survey no. 32/96 total area admeasuring 1300 square meter of Mouja Ballarpur, Tq. Ballarpur, District Chandrapur is lapsed under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 and petitioner is free to develop the land owned by them in the manner permissible to adjacent land as per Development Plan of Ballarpur city.
- iii. It is hereby directed the respondents to notify and publish in the official Gazette notification under Section 127(2) of MRTP Act, to

the effect the reservation for Shopping Center vide reservation no. 34 affected area admeasuring 1300 sq. mtr. out of land owned by he petitioner of Survey no. 32/96 total area admeasuring 1300 Sq. Mt. of Mouja Ballarpur, Tq. Ballarpur, District Chandrapur is lapsed, within a period of eight weeks from the date of this order.

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

[PRAVIN S. PATIL, J.]

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