



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

WRIT PETITION NO. 2681 OF 2024

PETITIONERS :

1. Shivom Mahadeoji Mor, Age: 72 years,
Occu.: Retired,
2. Gopal Mahadeoji Mor, Age: 62 years,
Occu.: Business,
Petitioner 1 & 2 R/o 12, "Laxmiheritage"
Dhamangaon Road, Yavatmal, 445001.

-Versus-

RESPONDENTS :

1. The State of Maharashtra, through the
Secretary, Urban Development
Department, Mantralaya, Mumbai.
2. The Director of Town Planning, State of
Maharashtra, Central Building, Pune.
3. The Municipal Council (MC)/ Nagar
Parishad, Yavatmal, through its Chief
Officer, Yavatmal, Dist. Yavatmal.

Mr.G.K.Mundhada, Advocate for the petitioners
Mr.P. P. Pendke, AGP for the respondent-State.
Mr.S.C.Bhalerao, Advocate for respondent No.3.

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

CLOSED ON : 24TH JUNE, 2025

PRONOUNCED ON : 27TH JUNE, 2025

J U D G M E N T (Per : Pravin S. Patil J.)

Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally with the consent of the learned counsel for the parties.

3. By the present petition, the petitioners are seeking declaration that the reservation of shopping complex and vegetable market vide reservation site No.48 affecting land of new survey No.17/3/17/4/91, area admeasuring 3982.50 sq.mtrs. and the reservation of dispensary and maternity home vide reservation site No.47 affecting land of new Survey No.17/3/17/4/92, area admeasuring 3584.50 sq.mtrs., situated at Mouza Yavatmal, Tahsil and District Yavatmal, be declared as 'lapsed' under section 127 of Maharashtra Regional and Town Planning Act, 1966 and accordingly, the petitioners be permitted to develop the land owned by them in the manner permissible to adjacent land as per development plan of Yavatmal City.

4. In the present petition, the petitioners are the owners of Survey/Gat No.17/3, area admeasuring 2.26 HR and Survey/Gat No.17/4, area admeasuring 4.05 HR, total admeasuring 6.31 HR of Mouza Yavatmal, Tahsil and District Yavatmal. On 08/07/1998,

revised development plan of Yavatmal City was published by the State Government vide Notification No.TPS.2795/1600/CR-252/95/UD-30 and was sanctioned and came into force in which Survey No.17/3/17/4/19/11 area admeasuring 3982.50 sq.mtrs. by affected by shopping complex and vegetable market vide reservation site No.48-D and Survey No.17/3/17/4/92 area admeasuring 3584.50 sq.mtrs. affected by dispensary and maternity home vide reservation site No.47 was sanctioned. According to the petitioners, after a period of ten years of acquiring of the land, no steps were taken for acquisition as contemplated under section 127 of MRTP Act by the respondents.

5. The petitioners, who are interested to develop the said property, issued statutory notice dated 24/02/2022 along with documents, i.e. 7/12 Extract, part plan showing reservation and other relevant documents of their ownership. The said notice was duly served to the respondents on 28/02/2022.

6. In response to the notice issued by the petitioners, respondent No.3 directed the petitioners to submit the documents showing ownership and interest of petitioners in the land in question, measurement-sheet/demarcated map of the land within seven days from the date of communication dated 10/05/2023. The petitioners

have accordingly submitted the relevant documents and thereafter on 06/06/2023, the Municipal Council Yavatmal in its general meeting by resolution No.40, resolved to commence acquisition proceeding within a period of 24 months. Accordingly, it was directed to forward proposal to Collector, Yavatmal. However, as the preliminary amount required to be deposited for commencing the acquisition proceeding, has not been deposited by respondent No.3. In the meantime, the period prescribed of 24 months expired on 27/02/2024.

7. In the background of above said factual position, the petitioners prayed for de-reserving the land in question as per section 127 of MRTP Act.

8. The respondents in their submission raised objection that the land reserved is of utmost important for the utility of public at large and therefore, the petitioners should have accepted the offer in the form of transferable development right (TDR) along with option to develop the land falls under the reservation. It is further stated that the petitioners failed to produce the measurement-sheet along with the purchase notice and directions given by this office on 10/05/2023.

9. The counsel for the petitioners has rightly relied upon the judgment of this Court in the case of ***Meeta Yuvraj Bakde and another***

v. The State of Maharashtra and others, dated 05/09/2023 passed in *Writ Petition No.7418 of 2022*. This Court has observed in the judgment that the measurement-sheet is not a document, which is required to be submitted along with a purchase notice under section 127 of the MRTP Act. Hence, the ground on which the respondents are opposing the claim of the petitioners is no more *res integra*.

10. Hence, considering the overall factual position in the present matter, we find that the respondents failed to comply with the statutory requirement of section 127 of the MRTP Act and therefore, the petitioners are entitled to a declaration of lapsing of reservation. Hence, we pass the following order.

ORDER

- (i) The writ petition is allowed.
- (ii) It is declared that the reservation of shopping complex and vegetable market vide reservation site No.48 affecting land of new survey No.17/3/17/4/91, area admeasuring 3982.50 sq.mtrs. and the reservation of dispensary and maternity home vide reservation site No.47 affecting land Survey No.17/3/17/4/92, area admeasuring 3584.50 sq.mtrs., situated at Mouza Yavatmal, Tahsil and District Yavatmal, is

lapsed under section 127 of Maharashtra Regional and Town Planning Act, 1966 and the petitioners are permitted to develop their own land as per law.

- (iii) The respondent No.3 is further directed to issue a proper notification under section 127 of the Maharashtra Regional and Town Planning Act, 1966 within a period of eight weeks from today.

20. Rule is made absolute in the above terms. No order as to costs.

(PRAVIN S. PATIL, J)

(SMT.M. S. JAWALKAR, J)