



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

WRIT PETITION NO. 5828 OF 2024

1. Rajesh Sampatlal Daga,
Age- 53 years, Occ-Business,
R/o Near Jain Temple, Sarafa Line,
Chandrapur, Tq. & Dist.- Chandrapur,
Maharashtra – 442401.

2. Rahul Naresh Pugaliya,
Age- 57 years, Occ-Agriculturist & Business,
R/o. Gandhi Chowk, Chandrapur,
Tq. & Dist.- Chandrapur, Maharashtra**PETITIONERS**

...VERSUS...

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 petitioners.
Shri A.S.Fulzele, Addl.G.P. for respondent no. 1/State.
Shri P.P.Kothari, Advocate for respondent no. 2.

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

DATE OF RESERVING THE JUDGMENT : 11/08/2025
DATE OF PRONOUNCING THE JUDGMENT: 13/08/2025

JUDGMENT (PER : SMT. M.S. JAWALKAR, J.)

Heard finally by consent of learned counsel
appearing for the respective parties.

2. The present petition is filed for declaration that, the Reservation no. 10 affecting the land bearing Survey No. 44/1, total area admeasuring 2.58.50 HR, out of which, the petitioners are owner of area admeasuring 0.81 H.R. of Mouza Padoli, Tq. & Dist. Chandrapur for the reservations Truck Terminals has lapsed under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short, "the MRTP Act).

3. The petitioners are joint owners in possession and

person interested in the development of land bearing Survey No. 44/1 at Mouza Padoli. The respondent no. 1 appointed respondent no. 2 as the “Special Planning Authority” The Regional Development Plan of Chandrapur-Ballarpur Region was published by Urban Development Department on 30/06/1998 and came into force on 01/09/1998. In the said plan, the land referred above was reserved for the purpose of Truck Terminals vide Reservation no. 10. On 31/08/2008, ten years had been lapsed from the date of coming into force the development plan of Chandrapur. There was one notice issued by the erstwhile owner on 01/10/2016 for de-reserving the land. However, that was not under Section 127 of the MRTP Act. The then owner thereafter issued notice under Section 127 of the MRTP Act on 28/02/2020 which was received by the office on 02/03/2020. The notice was accompanied with 7/12 extract, Talathi map and Part Plan. On 13/11/2020, the then owner entered into an agreement to sell with the petitioner no. 1. The statutory period of 24

months had been lapsed on 01/03/2022 after receipt of purchase notice. As such, it is claimed that, the rights of owner of the said land has been crystallized. The reservation on the said land has lapsed due to operation of deeming fiction and rights of the previous owner have been crystallized prior to issuance of notice by the present petitioners. On 04/05/2022, the petitioners issued notice under Section 127 of the MRTP Act along with all relevant documents and copy of agreement to sell in the capacity of person interested. Thereafter, on 11/09/2023, the Sale Deed came to be executed. After its execution, the petitioners became joint owner and person interested in the development of the said land.

4. The petition is vehemently opposed by the learned counsel for the respondent(s) on the ground that, as the petitioner no. 1 neither falls within the definition of 'owner' nor 'person interested' on the date of issuance of notice, thus has no right to issue the notice. After entering

into an agreement to sell, it does not confer any right, title or interest. The learned counsel relied on Section 43 of the MRTP Act which states that, after the land is declared as reserved under the Development Plan, no person is allowed to institute or change the user of the land or carrying out the development without permission of the planning authority. The learned counsel has also raised objection on the maintainability of the notice issued under Section 127 by the previous owner.

5. The learned counsel for the petitioners in reply relied on the order/judgment in the case of *Vyankatesh Reality, Amravati V/s. the State of Maharashtra and others* in **Writ Petition No. 1107/2014, dated 01/04/2015**, wherein it is held as under:-

“In the instant case, undisputedly, the notice was issued by the predecessor-in-title of the petitioner to the respondent nos.2 and 3 on 22.02.2012, from lapse of ten years after the coming into force of the revised development plan. The notice was duly received by the respondent nos.2 and 3 herein and admittedly the respondent nos.2 and 3 have not issued a notification under Section 6 of the Land Acquisition Act within

the period of one year from the date of the notice. If that is so, the provisions of Section 127 of the Act of 1966 would come into play and the reservation of the property mentioned hereinabove for the Sports Complex and Town Sub-Centre would lapse."

6. The learned counsel for the petitioners further placed reliance on *Saket Vivek Mamidwar V/s. State of Maharashtra {2024 LawSuit(Bom) 1615}*, wherein, in para 8, it is held as under:-

"8. So far as the objection in respect of notice by erstwhile owner is concerned, the said issue is already covered in Meena Mohanlal Chauhan Vs. Nashik Municipal Corporation and others, 2015 2 MhLJ 315, wherein it has been held that Section 127 of the MRTTP Act contemplates a purchase notice to be served by the owner or any person interested in land, on a notice given by the erstwhile owner, would accrue to the benefit of the transferee."

7. The learned counsel for the petitioners also placed reliance on *Meena Mohanlal Chauhan and V/s. Nashik Municipal Corporation and others {(2015) 2 Mh.L.J. 315}*, wherein, in para 13, it is held as under:-

"[13] The contention as raised on behalf of the 1st respondent that the purchase notice in question was served by the erstwhile owner and the same would not

enure to the benefit of the petitioner is misconceived. Section 127 contemplates a purchase notice to be served by the owner or any person interested in land. The 1st respondent has not disputed that when the purchase notice was served, Mr.Gangaram Gopala More, was the owner of the land or a person interested in the land. In fact, the 1st respondent entered into a correspondence with the petitioner and sought further details pertaining to the land including the Sale deed as entered between the erstwhile owners and the petitioner, which is clear from letters dated 26.11.2010 and 25.11.2010. The 1st respondent had not rejected the purchase notice issued by the erstwhile owner Mr. Gangaram Gopala More. However, only when the petitioner presented plans for development of the land, the 1st respondent issued the Impugned communication dated 21.2.2012 informing that the reservation continues and hence the development permission cannot be granted. Taking into consideration this factual position, there is no substance in the contentions as raised on behalf of the 1st respondent that the purchase notice issued by Mr.Gangaram Gopala More would not enure to the benefit of the petitioner. In any case, this contention as raised on behalf of the 1st respondent has no legal basis when considered in the context of the clear language of the provisions of section 127 of the M.R.T.P. Act."

8. Admittedly, there is no acquisition after purchase notice was issued to the respondent(s). Merely, sending proposal without depositing the initial payment would not suffice. As such, in view of deeming fiction under Section 127

the MRTP Act, the reservation is lapsed. Accordingly, we pass the following order:-

ORDER

- 1) The petition is **allowed**.
- 2) It is declared that, the land of the petitioners which was reserved for the purpose of Truck Terminals vide Reservation no. 10 in Survey No. 44/1, admeasuring 0.81 HR of Mouza Padoli, Tah. & District Chandrapur has been lapsed.
- 3) The land under Reservation no. 10 in Survey No. 44/1, admeasuring 0.81 HR of Mouza Padola, belonging to the petitioners is hereby released from reservation.
- 4) The respondent no. 1 to issue notification of dereservation of the aforesaid land within a period of three months.
- 5) Accordingly, the petition stands **disposed of**.

(PRAVIN S. PATIL, J.)

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