



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

WRIT PETITION NO. 5829 OF 2024

(Abdul Sajid Abdul Samad & Anr.

Vs.

The State of Maharashtra, Thr. the Secretary Urban Development
Department, Mantralaya Mumbai & Ors.)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. G.K. Mundhada, Advocate for the Petitioners.

Mr. S.V. Narale, AGP for the Respondent No.1/State.

Mr. Shriram Chopde, Advocate h/f Mr. R.D. Dharmadhikari, Advocate for the
Respondent Nos.2 & 3.

CORAM: ALOK ARADHE, CJ. AND
AVINASH G. GHAROTE, J.

DATED : 26th FEBRUARY, 2025

P.C.

1. Heard.

2. The Petitioners who are the owners of land bearing Survey No.4/1/A, admeasuring 3.54 HR at Village Navsari, Tahsil and District Amravati, have filed the Petition for declaration that the Development Plan vide Reservation No.27 in the above land which is for play ground stands lapsed, on account of the same not having been developed till now.

3. The Development Plan Reservation is of 25.02.1993, which has been subsequently revised on 06.12.2018 by publishing the draft plan under Section 38

read with Section 26 of the Maharashtra Regional & Town Planning Act, 1966 (hereinafter to be referred as the “Act of 1966”) in respect of which an objection has been made. The Petitioners submitted an objection on 14.12.2018 and was informed that the reservation cannot be deleted. Thereafter, on 19.07.2022 a purchase notice under Section 127 of the Act of 1966 was issued to the Respondent Nos.1 to 3. The receipt of the said notice is not disputed by the learned Counsel for the Respondent Nos.2 and 3.

4. It is contended by the learned Counsel for the Respondent Nos.2 and 3 that on account of the draft plan prepared under Section 38 of the Act of 1966 on 06.12.2018, the period of ten years, will have to be counted from the said date, considering which, the Petition is not maintainable. In this context, what is required to be considered is that a similar issue is raised has already been dealt with by the learned Division Bench of this Court in ***Santu Sukhdeo Jaibhave and others Vs. Nashik Municipal Corporation and others, 2023 (2) BCR 469***, it is held as under :-

“28. It is thus clear that even in respect of such revised development plan, a draft thereof has to be published followed by the objections and suggestions, as may be, filed by the person concerned, and after consideration of those objections and suggestions, final revised development plan is sanctioned. In our view, till such time, the draft Revised Development Plan is sanctioned finally and comes into effect in accordance with the provisions prescribed in the MRTP Act, the Draft Revised Development Plan has no legal sanctity and cannot be considered as final.

29. It is obvious that if any objections and suggestions opposing the Draft Revised Development Plan are

accepted by the Planning Authority, such Draft Revised Development Plan would not be final in its original form. Admittedly the purchase notice issued by the petitioner under Section 127 was not issued after the sanction of Draft Revised Development Plan under Section 31 of the MRTP Act. The respondents thus cannot be allowed to urge that the notice issued by the petitioners under Section 127 of the MRTP Act after publication of the Draft Revised Development Plan would not be a valid purchase notice. There is no substance in the submission made by the learned counsel for the respondents that the time to take steps by the respondents to acquire writ land would not commence from the date of receipt of purchase notice in view of the respondents already having published a Draft Revised Development Plan or that the petitioners would have to issue a fresh notice under Section 127 of the MRTP Act after expiry of 10 years from the date of sanction of Draft Revised Development Plan. The submission advanced by the learned counsel for the respondents are ex facie contrary to the provisions prescribed in Chapter III of the MRTP Act.”

5. In the instant matter, it has not been brought on record that the draft plan, has been sanctioned at any point of time till date, on account of which, the same cannot be taken into consideration, in view of what has been held above.

6. Though it is contended by the learned Counsel for the Respondent Nos.2 and 3, that a proposal of acquisition has been sent to the Respondent No.1, till date there is no response thereto. The statutory period of 24 months in terms of Section 127 of the Act of 1966, has already been expired, in view of which, we have no other option to hold that the reservation stands lapsed in view of mandate of Section 127 of the Act of 1966.

7. The Petition is accordingly **allowed** in the above terms. No costs.

8. Needless to say, that a notification regarding lapsing shall be published in the Official Gazette within a period of eight weeks from today.

9. Pending application/s, if any, shall stand disposed of accordingly.

(AVINASH G. GHAROTE, J.)

(CHIEF JUSTICE)