



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

WRIT PETITION NO. 6274 OF 2024

1. Milind Panjabrao Bhende
Aged : 50 Years; Occu : Service;

2. Krishna Milind Bhende
Aged : 23 Years; Occu : Student;

Nos.1 and 2 R/o Defence Nagar, Amravati,
Tahsil and District Amravati.

... PETITIONERS

VERSUS

1. The State of Maharashtra
through the Secretary Urban Development
Department, Mantralaya, Mumbai.

2. The Municipal Corporation of City of
Amravati, through its Commissioner,
Amravati Municipal Corporation, Rajkamal
Chowk, Amravati.

3. The Assistant Director of Town Planning,
Municipal Corporation, Amravati.

Office at : Municipal Corporation, Rajkamal
Chowk, Amravati.

... RESPONDENTS

Mr. G. K. Mundhada, Advocate for Petitioners.

Mr. R. D. Dharmadhikari, Advocate for Respondent Nos.2 and 3.

Mr. P. P. Pendke, AGP for Respondent No.1.

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

DATE : AUGUST 14, 2025.

ORAL JUDGMENT [PER PRAVIN S. PATIL, J.]

. Heard. **Rule.** Rule made returnable forthwith. By consent of the parties, Petition is taken up for final hearing at the stage of admission.

2. By this Petition, Petitioners are seeking declaration that reservation of Garden vide Reservation No. 522, Primary School vide Reservation No. 523, Play Ground vide Reservation No. 525 affecting the land owned by the Petitioners in Survey No. 66, Sub Division No.2, total area admeasuring 1 H. 59 R. of village Rahatgaon, Tahsil and District Amravati in the extended development plan of Amravati city has lapsed under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (*for short, 'the MRTPA Act'*) and that the Petitioners are free to develop the land owned by them in the manner permissible to adjacent land as per the Development Plan.

3. It is the submission of the Petitioners that First Development Plan of Amravati city was sanctioned on 25/2/1993 and thereafter by way of extended plan, vide Notification dated 13/7/2010, the Garden was reserved vide Reservation No. 522, Primary School vide Reservation No. 523, Play Ground vide Reservation No. 525 by the Respondents vide Notification dated 13/7/2010. Petitioners are the joint land owners of Survey No. 66, Sub

Division No.2, total area admeasuring 1 H. 59 R. of village Rahatgaon, Tahsil and District Amravati. According to them, by the said reservation, the land owned by them has been reserved in the extended Development Plan of Amravati city.

4. It is stated by the Petitioners that in earlier round of litigation they have raised objection to the reservation and matter was came up before this Court vide Writ Petition No. 1767/2021, wherein, this Court, vide order dated 22/3/2022 issued directions to the Respondent No.1 to reconsider the notice in accordance with the provisions of the MRTP Act after giving opportunity of hearing to the Petitioners. But same was again refused by the Respondent No.1 to confirm the purchase notice under Section 49 of the MRTP Act. In the circumstances, Petitioners were restricted their claim to the notice which they have issued under Section 127 of the MRTP Act.

5. It is undisputed fact that on 8/8/2022 Petitioners served the purchase notice under Section 127 of the MRTP Act to the Respondent Nos.1 and 2. Along with the said notice, they have enclosed 7/12 extract and Deviation Statement (chart of reservation). After receipt of the said notice, Respondent No.3 raised objection that document showing ownership and interest was not enclosed with notice. Accordingly, it was communicated to the

Petitioners to provide the measurement-sheet and park plan. The Petitioners have satisfied all defects of the notice on 24/8/2022.

6. It is stated that the statutory period of twenty-four months came to an end on 23/8/2024, but during this period, no steps were taken by the Respondents for acquiring the reserved land. Hence, the present Petition came to be filed for seeking declaration in the matter.

7. In response to the notices issued to the Respondents, it is the stand of the Respondent Nos.2 and 3 that Second Revised Draft Development Plan was issued in the matter on 6/12/2018. The notice which was issued under Section 127 of the MRTP Act by the Petitioners is of dated 17/8/2022 i.e. during the pendency of Second Revised Draft Development Plan. Therefore, Petitioners cannot be granted statutory benefit of Section 127 of the MRTP Act.

8. In the background of abovesaid submissions, learned Counsel for the Petitioners states that identical issue was considered by this Court in Writ Petition No. 8756/2018 along with the connected Petitions. In the said Petition, the question was framed and decided by this Court, which reads thus :

“Question that arises for consideration of this Court is whether the purchase notice issued by the Petitioners subsequent to the date of the Draft Revised Development Plan for the city of Nashik would be a valid notice or not or the petitioners were required to again wait for expiry of 10 years from the date of the Draft Revised Development Plan for the city of Nashik and then issue a fresh notice and then if no steps would be taken by the respondents within the time prescribed, the reservation in respect of the writ land would lapse at that stage or not.”

This question has been answered by the Court by recording the finding in paragraph Nos.37 and 38 as under :

“37. In our view, the reservation of the writ land has lapsed upon the expiry of the period from service of the Purchase Notice under section 127 of the MRTP Act. The proposal bearing land acquisition Proposal No. 16 of 2006 pending before the Collector, Nashik and or the sanction of the Draft Revised Development Plan as the new plan by Notification of 9th January 2017 and consequently the writ land shown under Reservation No. 205 for public housing cannot be construed as steps taken as contemplated by Section 127 of the MRTP Act. This Court in the case of Trilok Singh (supra). While advertng to the judgment of the Supreme Court in the case of Shrirampur Municipal Council v. Satyabhambai Bhimaji Dawkher, 2013 5 SCC 627 and also to its earlier judgment in the case of Girnar Traders (supra) has held that the steps towards acquisition can only be said to have commenced when the State Government takes steps for acquisition of the particular piece of land, by the publication of declaration under Section 6 of the Land Acquisition Act, 1894.

38. In the present case, the notification under Section 6,

*admittedly, has not been issued. The statutory notice viz the Purchase Notice under Section 127 of the MRTP Act was issued on 14th July, 2015 and it is evident that no steps as contemplated under Section 126(1)(c) read with Section 127 were taken before the expiry of the statutory period of 24 months. We are unable to agree with the submissions of Ms. Deshmukh on the application of the judgment of **Prafulla C. Dave (supra)** as it would deprive the petitioners of their statutory rights. In this regard, the Apex Court in the case of **Godrej And Boyce Manufacturing Company Limited (supra)** has held that the statutory right accrued to the owners cannot be taken away by an attempt to impose fresh reservation. We are also unable to agree with the contention of Mr. Patil that the publication of the Draft Revised Plan having been published prior to the issuance of of the Purchase Notice and the same would have an effect of continuing the reservation on account of the same being sanctioned subsequently.”*

9. Relying on the above Judgment, this Court in the case of **Abdul Sajid Abdul Samad & Anr. V/s The State of Maharashtra & Ors. in Writ Petition No.5829/2024 decided on 26/2/2025** has observed in paragraph Nos.4, 5 and 6 as under :

*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.”

Hence, considering the law laid down by this Court, we are of the considered opinion that only because Second Revised Development Plan was pending at the time of issuing notice by the Petitioners, their statutory right cannot be taken away. Hence objection raised by the Respondents is not sustainable. Consequently, Petitioners are entitled to take statutory benefits under Section 127 of the MRTP Act.

10. In the present matter, it is admitted fact on record that purchase notice was duly served on the Respondent Nos.2 and 3 and all the defects were cured on 24/8/2022. The statutory period of twenty-four months was expired on 23/8/2024. Admittedly, during this period of twenty-four months, no steps were taken to acquire the reserved land under the Development Plan. Therefore, the Petitioners are entitled for statutory benefits provided under Section 127 of the MRTP Act. Hence, we pass the following order.

ORDER

- (1) Writ Petition is allowed.
- (2) It is hereby declared that reservation of Garden vide Reservation No. 522, Primary School vide Reservation No. 523, Play Ground vide Reservation No. 525 affecting the land owned by the Petitioners of Survey No. 66, Sub Division No.2, total area admeasuring 1 H. 59 R. of village Rahatgaon, Tahsi and District Amravati in the extended development plan of Amravati city has lapsed under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (*for short, 'the MRTP Act'*) and that the Petitioners are free to develop the land owned by them in the manner permissible to adjacent land as per Development Plan.
- (3) It is further directed that the Respondents shall notify and publish in the official Gazette under Section 127 (2) of the MRTP Act, the lapsing of reservation of reservation of Garden vide Reservation No. 522, Primary School vide Reservation No. 523, Play Ground vide Reservation No. 27 and 18 meters DP Road of re-reservation of affecting the land owned by the Petitioners of Survey No. 66 Sub Division No. 2, total area

admeasuring 1 H. 59 R. of village Rahatgaon, Tahsil and District Amravati on the second revised draft development plan has lapsed under Section 127 of the MRTTP Act within a period of eight weeks from the date of receipt of this order.

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

[PRAVIN S. PATIL, J.]

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

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