



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

WRIT PETITION NO. 6984 OF 2024

1. Ganesh Tukaram Belsare,
aged about 55 yrs, Occ. Agriculturist,

2. Praibha Raju Kale,
Aged 48 yrs, Occ. Agriculturist,

3. Pruthviraj Raju Kale,
aged about 22 yrs, Occ. Agriculturist

4. Ku. Bhumika Raju Kale,
aged 18 yrs, Occ. Agriculturist,
All r/o Warud, Tq. Warud,
Dist. Amravati.

.....**PETITIONERS**

..V E R S U S..

1. The State of Maharashtra,
through its Secretary,
Department of Urban Development,
Mantralaya, Mumbai 32

2. The Municipal Council, Warud,
Dist. Amravati,
through its Chief Officer.

.....**RESPONDENTS**

Mr. Mohd. Ateeque Abdul Mushtaque, Advocate for the petitioners.
Mr. N.R. Patil, AGP for respondent No.1/State.
Mr. M.I. Dhattrak, Advocate for respondent No. 2.

CORAM:- ANIL S. KILOR, &
RAJNISH R. VYAS, JJ.

DATE 04-011-2025

JUDGMENT (Rajnish R. Vyas)

Rule. Rule made returnable forthwith. Heard finally by consent of learned counsels for the parties.

2. The petitioners by way of present petition has sought declaration that reservation of land situated at Survey No. 185-1B and 185-1, mouza Warud, Part (ii), District Amravati, admeasuring about 0.29 and 0.31 H.R., respectively has lapsed. A further direction is sought against respondent No.1 /State to notify lapsing of reservation.

3. Development plan for Warud town dated 6.6.2007 came into force on 16.7.2007. The land mentioned above was reserved for the purpose of garden. Since according to the petitioners, no steps were take by respondent No. 2 – Planning Authority to acquire the land, a purchase notice dated 1.7.2022 was issued by the petitioners through their counsel. After issuance of purchase notice, respondent No. 2 vide communication dated 26.7.2022 called upon the counsel for the petitioners to submit measurement sheet which was duly submitted by the petitioners on 30.8.2023. The petitioners thus contend since reservation was lapsed and purchase notice was issued in consonance with the Maharashtra Regional and Town Planning Act, 1966 (for short, “Act”), their petition be allowed. Per contra, learned counsel for

respondent No. 2 has contended that along with notice, no title documents were supplied initially. When the petitioners were asked to furnish the 7/12 extracts of the land in question, same were supplied. Learned counsel has further stated that after receipt of notice/purchase notice dated 1.7.2022, issued by the petitioners, respondent no. 2 asked the petitioners to supply ownership documents which were supplied by them subsequently. Learned counsel for respondent has also brought to our notice that they have already taken steps for acquisition of land and in order to buttress the said argument, our attention was invited to page No. 55 which is an order dated 2.4.2024, issued by the Collector, Amravati, by which power to conduct preliminary inquiry before issuance of notification under Section 19 of The Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 was conferred upon Sub Divisional Officer/Land Acquisition Officer – Morshi.

4. In the aforesaid background, we have perused the record. Though it is the case of the petitioners that along with the purchase notice, 7/12 extract/title documents were supplied, same was disputed by the respondent No.2. The title documents, were admittedly supplied by the petitioners on 30.8.2023 (page No. 38), thus, said issue loses its

importance. The contention of respondent No. 2 that by virtue of communication dated 2.4.2024, they have taken steps for acquisition under the provisions of Section 127 of the Act is required to be tested in the light of law laid down by the Hon'ble Apex Court.

5. At this juncture, it is necessary to reproduce Section 127 of the Act, which reads thus:

127. Lapsing of reservations.-

[(1)] If any land reserved, allotted or designated for any purpose specified in any plan under this Act is not acquired by agreement within ten years from the date on which a final Regional plan, or final Development plan comes into force [or, if a declaration under sub-section (2) or (4) of section 126 is not published in the Official Gazette within such period, the owner or any person interested in the land may serve notice, alongwith the documents showing his title or interest in the said land, on the Planning Authority, the Development Authority or, as the case may be, the Appropriate Authority to that effect; and if within [twelve months] from the date of the service of such notice, the land is not acquired or no steps as aforesaid are commenced for its acquisition, the reservation, allotment or designation shall be deemed to have lapsed, and thereupon the land shall be deemed to be released from such reservation, allotment or designation and shall become available to the owner for the purpose of development as otherwise, permissible in the case of adjacent land under the relevant plan.

(2) [On lapsing of reservation, allocation or designation of any land under sub-section (1), the Government shall notify the same, by an order published in the Official Gazette.]

The aforesaid provision was interpreted by Hon'ble Apex Court in case of *M/s. Girnar Traders Vs. State of Maharashtra and Ors*

(*AIR 2007 SC 3180*), relevant portion reads as under:

“31.....The step taken under the Section within the time stipulated should be towards acquisition of land. It is a step of acquisition of land and not step for acquisition of land. It is trite that failure of authorities to take steps which result in actual commencement of acquisition of land cannot be permitted to defeat the purpose and object of the scheme of acquisition under the MRTP Act by merely moving an application requesting the Government to acquire the land, which Government may or may not accept. Any step which may or may not culminate in the step for acquisition cannot be said to be a step towards acquisition.”

It is thus clear that just because communication dated 2.4.2024 was issued by the Collector, it cannot be said that it is a step of acquisition of land. In that view of the matter, since the petitioners have complied with provision of Section 127 of the Act, we find it deem to allow the instant petition. Accordingly, petition is allowed in terms of prayer clause (ii) with a further direction to respondent No.1 to notify lapsing of reservation within a reasonable period.

(RAJNISH R. VYAS, J.)

(ANIL S. KILOR, J.)