

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12380 OF 2025

Manisha Shivaji Nikam
And Others

...Petitioners

Versus

The State Of
Maharashtra And Anr

...Respondents

With

WRIT PETITION NO. 12006 OF 2025

Dnyaneshwar Tukram Malape
Versus

...Petitioner

The State Of
Maharashtra And Anr

...Respondents

Mr. Avinash N. Naikwadi, Advocate for petitioner in both petitions.

Ms. Tejas J. Kapre, AGP for respondents-State in WP/12380/2025.

Mr. Vikas Mali, AGP for respondents-State in WP/12006/2025

Mr. Sarang S. Aradhe a/w. Shantanu Gurav a/w. Dyaneshwari Utpat,
Advocate for respondent no.2 in both petitions.

Coram : Madhav J. Jamdar &
Pravin S. Patil, JJ.

Date : March 23, 2026.

JUDGMENT (PER MADHAV J. JAMDAR, J.) :

1. Heard Mr. Naikwadi, learned Advocate for the Petitioners, learned

AGPs for Respondents–State, and Mr. Aradhye, learned Advocate for Respondent No.2.

2. By these petitions, the Petitioners seek a declaration that the subject lands stand de-reserved on the ground that, despite service of notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short, “MRTP Act”), and lapse of the statutory period, the lands have neither been acquired nor have any steps been taken towards acquisition.

3. In Writ Petition No.12006 of 2025, the reliefs sought in terms of prayer clauses (a) and (b) read thus:

(a) That this Hon'ble Court may be pleased to issue writ of mandamus or any other writ, order or direction to hold and declare the portion of the land which is shown to be reserved for public purpose out of Gat No.4/1, admeasuring area 01H.97R. PK. 0.01.50 R. situated at village Isbavi, Taluka: Pandharpur, District: Solapur, be de-reserved and available for development to the Petitioner as per existing Law and Rules;

(b) This Hon'ble Court may be pleased to issue appropriate writ, order or directions to the Respondents to de-reserve and release the portion of the land which is shown to be reserved out of Gat No.4/1, admeasuring area 01H.97R. PK. 0.01.50 R. situated at village Isbavi, Taluka: Pandharpur, District: Solapur, and grant permission to the Petitioner to develop the same in accordance with law.

4. Similarly, in Writ Petition No.12380 of 2025, the reliefs sought in terms of prayer clauses (a) and (b) read thus :

“(a) That this Hon'ble Court may be pleased to issue writ of mandamus or any other writ, order or direction to

hold and declare the all that piece and parcel of the property having land Gat No.4/4 and 4/5, admeasuring area 00H.14.25 R. and 00H.09.50R. situated at village Isbavi, Taluka: Pandharpur, District: Solapur, be dereserved and available for development to the Petitioners as per existing Law and Rules;

(b) This Hon'ble Court may be pleased to issue appropriate writ, order or directions to the Respondents to de-reserve and release the all that piece and parcel of the property having land Gat No.4/4 and 4/5, admeasuring area 00H.14.25 R. and 00H.09.50R. situated at village Isbavi, Taluka: Pandharpur, District : Solapur, and grant permission to the Petitioners to develop the same in accordance with law.”

5. It is an admitted position that, in Writ Petition No.12006 of 2025, notice under Section 127 of the MRTP Act was issued on 4th September 2023, and in Writ Petition No.12380 of 2025, such notice was issued on 24th March 2023. Both petitions have been filed on 5th October 2025. It is the submission of Mr. Naikwadi, learned counsel for the Petitioners that no steps have been taken for acquisition and, therefore, the Petitioners are entitled to the reliefs sought.

6. Per contra, Mr. Aradhye, learned counsel for Respondent No.2–Municipal Council, Pandharpur, submits that by communication dated 13th December 2023, an offer of Transferable Development Rights (TDR) was made to the Petitioners. He further submits that a proposal dated 19th December 2024 was forwarded to the Deputy Collector (Land Acquisition), Solapur, for acquisition of the lands. Reliance is also placed

on the affidavit-in-reply dated 22nd March 2026 filed by Mr. Mahesh Rokade, Chief Officer, Pandharpur Municipal Council. It is, therefore, contended that the Petitioners are not entitled to any relief.

7. In rejoinder, learned counsel for the Petitioners submits that the communication dated 13th December 2023 itself records that the financial condition of the Municipal Council is weak and, therefore, it is unable to pay compensation at market rate, and hence TDR was offered.

8. Before consideration of the rival submissions, it is necessary to refer to Sections 126 and 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short, “MRTP Act”). The said provisions make it clear that if any land is required or reserved for any of the public purposes as specified in any draft regional plan, a Development or any other plan or town planning scheme under the MRTP Act, the same can be acquired by Planning Authority, Development Authority. The Division Bench of this Court, in the case of ***Ramakant vs. State of Maharashtra***, reported in ***(2021) 3 Mah LJ 204***, has set out the scheme of Sections 126 and 127 of the MRTP Act. Paragraph 19 of the said judgment reads thus:

“19. Bare reading of section 126 read with Section 127 of the MRTP Act contemplates following:—

(A) Section 126(1) of MRTP Act:

If any land is required or reserved for any of the public purposes as specified in any draft regional plan, a Development or any

other plan or town planning scheme under said Act, the same can be acquired by Planning Authority, Development Authority or any appropriate Authority, as the case may be, by following three methods:—

- (a) By agreement by paying an amount agreed to, or*
 - (b) By granting Floor Space Index (FSI) or Transferable Development Rights (TDR) or*
 - (c) By making application to the State Government for acquiring such land under the provisions “2013 Act” (Earlier “1894 Act”).*
- It is to be noted that acquisition contemplated by method (a) and (b) is by consent between the land owner/lessee and the Planning Authority/Development Authority/Appropriate Authority and acquisition by method (c) is compulsory acquisition.*

(B) Section 126(2) of the MRTTP Act:

On receipt of application contemplated under section 126(1)(c) if the State Government is satisfied that the land specified in the application is needed for the public purpose therein specified, it may make declaration to that effect in the Official Gazette in the manner provided in section 19 of the “2013 Act” (Earlier under section 6 of the “1894 Act”).

No such declaration is to be made after the expiry of one year from the date of publication of the draft Regional plan, Development plan or any other Plan, or Scheme, as the case may be.

(C) Section 126(3) of the MRTTP Act:

On publication of declaration under section 19 of “2013 Act” (Earlier under section 6 of the 1894 Act”) as provided in section 126(2), the steps to acquire land be taken as per the provisions of “2013 Act”(Earlier “1894 Act”), however the market value of the land shall be as provided in section 126(3).

(D) Section 126(4) of the MRTTP Act:

If the declaration is not made within a period of one year then the State Government may make a fresh declaration for acquiring the land under the provisions of “2013 Act” (Earlier “1894 Act”) in the manner provided under section 126(2) and (3), however market value of the land shall be the market value of the date of publication of declaration in the Official Gazette made for acquiring the land afresh.

(E) Section 127 of the MRTTP Act:

If any such land is not acquired by agreement within 10 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 on the Planning Authority, the Development Authority or Appropriate Authority to that effect and if within 24 months (Earlier 12 months/6 months) from the date of service of such notice, the land is not acquired or no steps

as aforesaid are commenced for its acquisition, reservation, allotment or designation shall be deemed to have lapsed.”

9. In the present case, it is not in dispute that the lands are designated in the Development Plan for specified public purposes and that a period of more than 10 years has elapsed without acquisition. Insofar as Writ Petition No.12006 of 2025 is concerned, notice under Section 127 of the MRTP Act was issued on 4th September 2023, and insofar as Writ Petition No.12380 of 2025 is concerned, such notice was issued on 24th March 2023.

10. What is contemplated under Section 127 of the MRTP Act if any such land is not acquired by agreement within 10 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 on the Planning Authority, the Development Authority or Appropriate Authority to that effect and if within 24 months from the date of service of such notice, the land is not acquired or no steps as aforesaid as contemplated have commenced for its acquisition, reservation, allotment or designation shall be deemed to have lapsed.

11. The contention raised by learned counsel for Respondent No.2 that the offer of TDR constitutes sufficient compliance with Section 127 of the

MRTP Act cannot be accepted. The Division Bench of this Court in *Pundalik Sharanbasappa Patil vs. State of Maharashtra & Ors.*, reported in *(2023) 1 Mah LJ 105*, has held in paragraph 16 that if the landowner is not willing to accept TDR, he cannot be compelled to do so, and in such circumstances, the Planning Authority has no option but to resort to acquisition proceedings.

12. In view of the provisions of Section 127 of the MRTP Act and upon perusal of the record, it is evident that no steps for acquisition have been commenced within a period of 24 months from the date of service of notice under Section 127 of the MRTP Act. Consequently, the reservation stands lapsed. The petitions, therefore, deserve to be allowed. We, accordingly, pass the following order:

ORDER

(i) Writ Petition No.12006 of 2025 is allowed in terms of prayer clauses (a) and (b). No order as to costs.

(ii) Writ Petition No.12380 of 2025 is allowed in terms of prayer clauses (a) and (b). No order as to costs.

13. Both writ petitions stand disposed of in the aforesaid terms.

[Pravin S. Patil, J.]

[Madhav J. Jamdar, J.]