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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 6366 OF 2017**

Prakash Sopan Kate .. Petitioner

**Versus**

The State of Maharashtra & Ors. .. Respondents

...

Dr. Uday Warunjikar, for the Petitioner.

Mr. Deepak R. More a/w Mr. Shivram A. Gawade, for Respondent Nos. 1 and 2.

...

**CORAM: BHARATI DANGRE &**
**ASHISH S. CHAVAN, JJ.**

**DATED : 18th AUGUST, 2026**

P.C:-

1. Rule. Rule made returnable forthwith and heard finally with the consent of the parties.

2. The Petitioner, being an owner of land bearing Survey No. 5/1, admeasuring 39 Ares, 5/2, admeasuring 23 Ares, and 5/4, admeasuring 11.5 Ares, situated at Village Dapodi within the limits of Respondent No.2, which is the subject matter of the Writ Petition.

It is pleaded that, initially, the said lands were included in the final development plan for Pune Municipal Corporation and the notification issued on 05.01.1987 included these lands.

The Writ Petition also refers to the specific reservation shown in the development plan, but since we are not

concerned with the minute details thereof, we refrain ourselves from referring to the unnecessary details. However, with effect from 11.09.1997, the Urban Development Department altered the limits of City of Pimpri Chinchwad so as to include certain areas of revenue villages specified in Column 2 of Schedule 1, with the boundaries specified, and this included Village Dapodi, and from 11.09.1997, the subject property of the present Writ Petition also stood relegated to the Pimpri Chinchwad Municipal Corporation.

3. The Petitioner, based on the assumption that his land was reflected in the development plan of Pune Municipal Corporation and since no steps were taken for its acquisition, addressed a notice to the Town Planning Authority, State of Maharashtra, on 11.09.1996, to be followed by a notice dated 25.11.2015 addressed to the Collector, Pune, as well as the Pimpri Chinchwad Municipal Corporation and its Deputy Director of Planning, requesting that the land be deleted from the reservation, as despite passage of 30 to 34 years, the land continued to be reserved and no steps are taken for its acquisition.

In the absence of any action being taken on the notice issued by him by invoking Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short, “the MRTP Act”), the Petitioner has approached this Court seeking a declaration that the reservation has lapsed under the provisions of Section 127, by issuing an appropriate writ/direction.

4. We have heard learned counsel representing Pimpri Chinchwad Municipal Corporation, who, by inviting our

attention to the notification issued by the Urban Development Department dated 11.09.1997, would submit that, upon the lands from several villages, including Dapodi, being declared to have fallen within its jurisdiction, a draft development plan was published in the year 2000, to be followed by the final development plan on 02.03.2015. According to the learned counsel, it is from this date the provisions of the MRTP Act, including Section 127, are made applicable as far as Pimpri Chinchwad Municipal Corporation is concerned, and he would invoke the law laid down by the Apex Court in case of ***Prafulla C. Dave & Ors. Vs. Municipal Commissioner & Ors.***[1]**,** which has categorically held that Section 127 of the MRTP Act, or any provision therein, do not provide for automatic lapsing of acquisition, reservation, allotment or designation of land included in any development plan on the expiry of 10 years. On the other hand, the scheme contemplate that upon expiry of the period of 10 years, the landowner or person interested is mandated by statute to take certain positive steps, namely, issuance/service of notice evidencing his clear intention, and there must occur a corresponding failure of the authority to take requisite steps as demanded therein, wherein the action under Section 127 of the MRTP Act shall be the consequence. Thus, what is contemplated is a notice by the person interested/the owner anterior in point of time to the preparation of the revised plan, and, in specific, paragraph 21 of the said decision has been invoked, which reads to the following effect:

> ***"21.*** *Under Section 127 of the MRTP Act, reservation,*

1 (2015) 11 SCC 90

*allotment or designation of any land for any public purpose specified in a development plan is deemed to have lapsed and such land is deemed to be released only after notice on the appropriate authority is served calling upon such authority either to acquire the land by agreement or to initiate proceedings for acquisition of the land either under the MRTP Act or under the Land Acquisition Act, 1894 and the said authority fails to comply with the demand raised thereunder. Such notice can be issued by the owner or any person interested in the land only if the land is not acquired or proceedings for acquisition are not initiated within ten years from the date on which the final development plan had come into force. After service of notice by the landowner or the person interested, a mandatory period of six months has to elapse within which time the authority can still initiate the necessary action. Section 127 of the MRTP Act or any other provision of the said Act does not provide for automatic lapsing of the acquisition, reservation or designation of the land included in any development plan on the expiry of ten years. On the contrary, upon expiry of the said period of ten years, the landowner or the person interested is mandated by the statute to take certain positive steps i.e. to issue/serve a notice and there must occur a corresponding failure on the part of the authority to take requisite steps as demanded therein in order to bring into effect the consequences contemplated by Section 127. What would happen in a situation where the landowner or the person interested remains silent and in the meantime a revised plan under Section 38 comes into effect is not very difficult to fathom. Obviously, the period of ten years under Section 127 has to get a fresh lease of life of another ten years."*

We find substance in the said submission, as we must note that, as far as the land from Village Dapodi which came under the control of Pimpri Chinchwad Municipal Corporation

under Section 34(2) of the MRTP Act, which relates to the preparation of a development plan for an additional area, it is contemplated that where any area is withdrawn from the jurisdiction of a Planning Authority, the proposals, if any, made for that area so withdrawn in a Development Plan shall also be deemed to be withdrawn therefrom.

Therefore, upon reading of the said provision, it is evidently clear that when the area which was earlier designated as reserved for certain purposes by the Pune Municipal Corporation, on its falling within the jurisdiction of Respondent No. 2, i.e. Pimpri Chinchwad Municipal Corporation, stands withdrawn from the erstwhile reservation, and it could be subjected to a fresh reservation by the Planning Authority, and this is precisely what was done by Respondent No.3 when it published a draft development plan, to be followed by a final development plan in which this land is shown against certain reservations. In such circumstances, the notices issued under Section 127 of the MRTP Act on the presumption that the reservation was found in the development plan of the Pune Municipal Corporation cannot be the basis for seeking a declaration that the reservation has lapsed.

Nonetheless, it is open for the Petitioner now to address notices to the new Planning Authority on the expiry of the period of ten years, and it is for the new Planning Authority to take such steps as are permissible under Section 127 of the MRTP Act.

Though learned counsel, Dr. Warunjikar, has vehemently asserted before us that after issuance of the notice, the Writ

Petition was pending before this Hon'ble Court, and even counting ten years from 2015, the ten year period has already lapsed, we must make it clear that the mandate of law is very specific that a landowner or a person interested in the land and seeking its release from reservation must issue a notice clearly expressing his intention, and upon such a notice being issued, it is open for the Planning Authority to take such steps as are contemplated in terms of ***M/s. Girnar Traders Vs. State of Maharashtra. & Ors.***[2] In the wake of the decision of the Constitution Bench in ***M/s. Girnar Traders*** *(supra),* we do not accede to his request, as we expect him to follow the procedure strictly in accordance with law.

With the aforesaid directions, the Writ Petition is disposed of.

**(ASHISH S. CHAVAN J.)** **(BHARATI DANGRE, J.)**

2 (2011) 3 SCC 1