IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4596 OF 2024
WITH
INTERIM APPLICATION (ST) NO. 21494 OF 2024
IN
WRIT PETITION NO. 4596 OF 2024

Shrikant Devidas Uplekar , age 64 years
R/o. Bungalow No.57, Indraprasth
Colony, Opp. Icchamani Ganpati
Temple, Upnagar, Nashik 422 006
(since deceased through his legal heir ;
A. Aruna Shrikant Uplekar (Adult) age – 65 years,

B. Amruta Shrikant Uplekar
(Adult) Age - 33 years,
All R/o. Bungalow No.57,
Indraprasth Colony, Opp. Icchamani Ganpati
Temple, Upnagar, Nashik 422 006

.....Petitioners / Applicants

Versus

1. Malegaon Municipal Corporation
A statutory corporation incorporated
Under the provisions of the Bombay
Provincial Municipal Corporation Act
having its office at Malegaon

2. The Commissioner,
Malegaon Municipal Corporation

3. The Collector, Nashik

4. Assistant Director of Town Planning,
Kanda – Batata Bhavan, Agra Road, Nashik

RUPALI RAJESH WAKODIKAR
Digitally signed by RUPALI RAJESH WAKODIKAR
Date: 2026.10.23 12:46:35 +0530

5. The Director, Town Planning
Near Pune Station, Pune, 411 001.

6. The Deputy Director, Town Planning
Nashik Division, Alias Government
Appointed Officer, Development Yojana
Malegaon having its office at Commissioner
Office, Nashik Road, Nashik

7. State of Maharashtra
Through Principal Secretary
under Development Department
Mantralaya, Mumbai 400 032. .....Respondents

.....

Mr. Vinit P. Ahuja i/b Mr. Prakash Ahuja, for the Petitioners.

Mr. S.S.Patwardhan a/w Mr. A.V.Hardas, for the Respondent No.1-Malegaon Municipal Corporation.

Smt. Reena A. Salunkhe, A.G.P for the Respondent – State.

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CORAM : M. S. KARNIK &
SANDESH D. PATIL, JJ.

DATE : 22nd OCTOBER, 2026

JUDGMENT (PER SANDESH D. PATIL, J.)

1. **Rule**. Rule is made returnable forthwith and with the consent of the parties, the matter is taken up for final hearing.

2. By the present writ petition, the petitioners are seeking a Writ of Mandamus, thereby directing that the reservation of the plot

Nos.24 to 38 of Survey No. 68, situated at Malegaon Camp bearing Reservation Site No. 20, is deemed to have lapsed and the petitioners are entitled to develop the said property as otherwise permissible in law.

3. It is the contention of the petitioners that the said property was reserved for primary school and playground for last more than 10 years from the date of coming into force the Development Plan for the city of Malegaon. The petitioners gave a Purchase Notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 ('**MRTP Act**' for short). The respondent-Corporation did not acquire the land nor did release the same from acquisition. Hence the present petition is filed for the reliefs as mentioned in the prayer clause of the petition.

4. The learned Counsel appearing for the petitioners submitted that the petitioners are the owners of the plot bearing Nos.24 to 38 situated in Survey No. 68, admeasuring about 3400 square meters situated at Village Malagaon Camp, Taluka Malegaon, District Nasik ('**the said plot**' for short). The learned Counsel contended that the

said plot of land was reserved in the Development Plan for the purpose of primary school and playground under designated reservation No. 20. The said Development Plan is annexed at 'Annexure-D' to the petition. Learned Counsel for the petitioners submitted that the said plan was sanctioned on 21st August, 2009. It is further submitted that the petitioners had initially objected to the draft Development Plan prior to it coming into force. The Government in exercise of power under the MRTP Act, notwithstanding the objection raised by the petitioners and similar other persons had brought the said plan into force with effect from 12th October, 2009. This was the second revised plan. He submitted that the EP5 Site No. 20 was reinstated as per modifications sanctioned by the Government under Section 31(1) of the MRTP Act whereby the land of the petitioner bearing Survey No. 68, Plot No. 24 to 38 at Village Malegaon camp was finally reserved for public purpose Site No. 20 i.e. construction of Primary School and Playground. It is the contention of the petitioner that the said land was under reservation since the year 2009, however, the process for acquiring the land was never initiated for more than 10 years from the date on which the land was brought under reservation. The

petitioner ultimately invoked provisions of Section 127 of the MRTP Act and issued a Purchase Notice dated 13th February, 2020 to the respondent no.1-Corporation. The same was duly served upon the respondent-Corporation on 14th February, 2020. The said Purchase Notice is annexed at Exhibit-K to the petition. It is the contention of the petitioners that the Purchase Notice was also addressed to the Collector Nashik, Principal Secretary, Urban Development Department, Director Town Planning Pune, Director Town Planning Nashik as well. He further submitted that inspite of receipt of the said notice, no steps were taken by the respondent No.1-Corporation. The State of Maharashtra through Desk Officer had replied to the Purchase Notice by letter dated 24th February, 2020 addressed to the Commissioner, Malegaon Municipal Corporation and a copy thereof was addressed to the advocate for the petitioners confirming the receipt of Purchase Notice issued under Section 127 of the MRTP Act.

5. On 5th April, 2022 i.e. after expiry of 24 months of service of the Purchase Notice, the petitioners had called upon the authorities intimating them that the statutory period of 24 months is over and that he may be permitted to carry out construction on the aforesaid

reserved plot. The said reminder dated 5th April, 2022 is annexed at 'Annexure-N1' to the petition. The petitioners had submitted a plan for the approval of the respondent No. 1.

6. The plan which was sought by the petitioners was rejected by the Municipal Commissioner vide a letter issued by the respondent No.1. The said letter dated 18th July, 2022 is annexed at 'Annexure - O' to the petition. The petitioners thereafter on 7th September, 2022 applied for Zoning Certificate in respect of the said plot. The respondent No.1 -Corporation had issued the Zone Certificate on 12th September, 2022. It is the contention of the petitioners that inspite of receipt of the Purchase Notice dated 13th February, 2020, the Corporation did not take any action within the time span of 24 months as stipulated in Section 127 of the MRTP Act and as such the reservation had lapsed. The petitioners further contended that since the reservation has lapsed, they are entitled to use the land for the purpose which they wanted.

7. The learned Counsel Mr. S. S. Patwardhan, appearing for the respondent-Corporation strongly objected the petition. He submitted that the Development Plan dated 15th September, 2006 was partly

sanctioned with effect from 1st November, 2006. He submitted that the excluded part of the Development Plan dated 21st August, 2009 however, came into effect from 12th October, 2009. The property in question is situated in this excluded portion.

8. The notice dated 13th February, 2020 under Section 127 of the MRTP Act was served upon the Municipal Corporation. He submitted that although the notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 was duly served upon the Corporation, the Corporation on 26th August, 2020 wrote a letter to the petitioners *inter alia* demanding several documents from the petitioners. It is the contention of the respondent No.1-Corporation that the petitioners should have immediately filed response to the said notice and should have complied with the requisition of the letter/notice dated 26th August, 2020. He submitted that since the petitioner did not comply with the requisition of the said notice dated 26th August, 2020, hence it cannot be said that the reservation has lapsed. He invited our attention to the reply filed by the Corporation to the notice dated 26th August, 2020 and contended that in absence of compliance of

the said notice the present petition cannot be said to be maintainable. The learned Counsel Mr. Patwardhan has stated that the notice issued under Section 127 of the Act mandates that the notice which is issued to the planning authority shall be accompanied by documents showing title of the landowner or his interest in the land. He submitted that as seen from the Purchase Notice, there were no documents accompanied with the notice, hence, it cannot be said to be valid notice as contemplated under the provisions of Section 127 of the said Act.

9. Heard the learned Counsel appearing for the parties. Perused the documents on record.

10. The fact that the Development Plan with which the said plot is concerned, has come into force with effect from 12th October, 2009 is not denied by either of the parties. It is also not disputed that the petitioners had issued notice under Section 127 of the MRTP Act upon the respondent No.1 - Corporation on 13th February 2020. All that is contended by the respondent No.1 - Corporation is that notwithstanding receipt of the said notice, the respondent No.1 –

Corporation required certain documents from the petitioners which were not given by the petitioners, hence, the notice cannot be said to be a complete notice. At this juncture, it is necessary to see the provisions of Section 127 of the MRTP Act as it stood at the time when the Purchase Notice was issued.

> *"**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 Developmentplan comes into force or, if a declaration under subsection (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, along with 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 twenty -four 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.*
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> *(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."*

11. The only argument of the respondent No.1 – Corporation is that the documents which were demanded by the respondent No.1 – Corporation vide letter dated 26th August, 2020 were not supplied by

the petitioners and hence, the present petition is not maintainable.

12. Thus, the only issue which remains to be considered is that whether the Purchase Notice would be said to be a complete notice in absence of the documents which were annexed along with notice under Section 127 of the MRTP Act.

13. The land, in question is reserved as reservation plot No.20 for primary school and playground as per the Development Plan of the year 2009. Since the date of issuance of Purchase Notice dated 13th February, 2020 is not disputed, the period of 24 months come to an end on 13th February, 2022, within which, the respondents were required to take steps to acquire or to develop the land within the prescribed period. The only grievance which is raised is that the Purchase Notice was defective. On perusal of the requirement of Section 127, it is clear that the only requirement of law is that the purchase notice has to be issued by the person interested in the land showing his title or interest in the land. The petitioners have filed a rejoinder affidavit, where they had stated categorically that the Purchase Notice dated 13th February, 2020 was accompanied by the 7/12 extract of the property, which showed the ownership of the

property.

14. On perusal of the said Purchase Notice which is annexed to the petition it is seen that the copies of the 7/12 extract were served along with the said notice. At this juncture, it would be profitable to rely upon the contents of the Purchase Notice itself. The said Purchase Notice is at page 100 to the petition. The petitioners have mentioned in paragraph No.6 of the said Purchase Notice that they are annexing the 7/12 extract alongwith the Purchase Notice. The said averments in vernacular read as under :

> *"सदरहू मिळकत आमचे पक्षकारांच्या मालकीची आहे हे दाखविण्यासाठी मालकी हक्काचा पुरावा म्हणून ७/१२ उतारा सोबत जोडला आहे."*

15. Thus, the entire contention of the petitioners that the Purchase Notice did not accompany the 7/12 extract of the property are not only factually incorrect, but also contrary to the documents on record. It appears that the respondent No.1- Corporation has raised facade to wriggle out of the provisions of Section 127 of the MRTP Act. The defence raised by the respondent is not tenable in juxtaposition to Section 127 of the MRTP Act.

16. The Hon'ble Supreme Court in ***Municipal Corporation of Greater Bombay V/s Dr.Hakimwadi Tenants' Association & Ors.***[1] held

1 1988 (Supp) SCC 55

as under :

> *"**7.** According to the plain reading of Section 127 of the Act, it is manifest that the question whether the reservation has lapsed due to the failure of the Planning Authority to take any steps within a period of six months of the date of service of the notice of purchase as stipulated by Section 127, is a mixed question of fact and law. It would therefore be difficult, if not well nigh impossible, to lay down a rule of universal application. It cannot be posited that the period of six months would necessarily begin to run from the date of service of a purchase notice under Section 127 of the Act. The condition prerequisite for the running of time under Section 127 is the service of a valid purchase notice. It is needless to stress that the Corporation must prima facie be satisfied that the notice served was by the owner of the affected land or any person interested in the land. But, at the same time, Section 127 of the Act does not contemplate an investigation into title by the officers of the Planning Authority, nor can the officers prevent the running of time if there is a valid notice. Viewed in that perspective, the High Court rightly held that the Executive Engineer of the Municipal Corporation was not justified in addressing the letter dated July 28, 1977 by which he required Respondents 4-7 the trustees, to furnish information regarding their title and ownership, and also to furnish particulars of the tenants, the nature and user of the tenements and the total area occupied by them at present. The Corporation had the requisite information in their records. The High Court was therefore right in reaching the conclusion that it did. In the present case, the Planning Authority was the Municipal Corporation of Greater Bombay. It cannot be doubted that the Municipal Corporation has access to all land records including the*

> *records pertaining to Cadastral Survey No. 176 of Tardeo. We are inclined to the view that the aforesaid letter dated July 28, 1977 addressed by the Executive Engineer was just as attempt to prevent the running of time and was of little or no consequence. As was rightly pointed out by Respondents 4-7 in their reply dated August 3, 1977, there was no question of the period of six months being reckoned from the date of the receipt from them of the information requisitioned. The Municipal Corporation had been assessing the trust properties to property tax and issuing periodic bills and receipts therefor and obviously could not question the title or ownership of the trust. We are informed that the building being situate on Falkland Road, the occupants are mostly dancing girls and this is in the knowledge of the Corporation authorities. The rateable value of each tenement would also be known by an inspection of the assessment registers. We must accordingly uphold the finding arrived at by the High Court that the appellant having failed to take any steps, namely, of making an application to the State Government for acquiring the land under the Land Acquisition Act within a period of six months from the date of service of the purchase notice, the impugned notification issued by the State Government under Section 6 of the Land Acquisition Act making the requisite declaration that such land was required for a public purpose i.e. for a recreation ground was invalid, null and void."*
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> *(emphasis supplied)*

17. Thus, the Hon'ble Supreme Court has clearly held in the Judgment of ***Dr. Hakimwadi Tenants' Associations (supra)*** that the Corporation has requisite information in the record about the area

occupied by the concerned person whose land is reserved. Since the Corporation has got access to all the land records including the record pertaining to the property in question, the letter dated 26th August, 2020 which was addressed by the respondent No.1-Corporation to the petitioners was nothing but an attempt to prevent the running of time and was of little or no consequence to decide the issue of lapsing of reservation.

18. To sum up, the petitioners had annexed the 7/12 extract of the property. There is no dispute that the description of the land was properly mentioned in the Purchase Notice. There was, thus, no ambiguity in any manner in the Purchase Notice which was issued by the petitioners which described the land with sufficient clarity and which accompanied the 7/12 extract, which *prima facie* denoted the title of the petitioner to the said land. The Purchase Notice, thus, in all aspects complied with the statutory requirement of Section 127 of the MRTP Act.

19. We are fortified in our view in relying upon the judgment in the matter of ***Chinmay Gurnath Parade V.s State of Maharashtra***[2]. We

2 WP/3890/2021, High Court of Bombay at Bombay

are also fortified in our contention in relying upon the Judgment in the matter of ***Yakub Salebhai Contractor & Ors. V/s. The State of Maharashtra & Ors***.[3] where the co-ordinate bench of this Court had considered the requirement of Section 127 of the MRTP Act and have also considered as to which documents were required to be accompanied with the notice.

20. Once we have steered clear the position that the petitioners have complied with the requisition of Section 127, then the only question which arises for consideration is whether the petitioner had taken any steps for the purpose of acquisition of the land in question. The question is not debatable inasmuch as, the learned Counsel appearing for the respondent No.1- Corporation submitted that since the petitioner did not comply with the requisitions of the notice dated 26th August, 2020 issued by the Municipal Corporation, there was no question of further initiating any steps. This being the position in hand, since the respondent No.1- Corporation has not taken any steps as contemplated in Section 127 of the MRTP Act, the conclusion is inevitable that the reservation in the present case has lapsed. We, therefore, hold that the petitioner has complied with the

3 2026 SCC OnLine Bom 1292

provisions of Section 127 of the MRTP Act. The reservation on the said land bearing Plot Nos.24 to 38 situated on Survey No. 68 in Malegaon Camp Ward, Malegaon, District Nashik and the reservation bearing Site No. 20 has lapsed. As a corollary, the petitioners are at liberty to use the land for the purpose which he is entitled to taking into consideration the Development Plan of the city. Hence, the petition is allowed.

21. Rule is made absolute in aforesaid terms.

22. No order as to costs.

23. In view of the above, Writ Petition No. 4596 of 2024 stands disposed of accordingly.

24. In view of the disposal of the Writ Petition today and taking into consideration that legal representatives were brought on record vide Order dated 25th July, 2024, the Interim Application (Stamp) No.21494 of 2024 stands disposed off accordingly.

(SANDESH D. PATIL, J.) **(M. S. KARNIK, J.)**