

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.887 OF 2024

Darpan Narendra Thakur	]	
Age: 43, Adult, Indian Inhabitant,	]	
residing at 'Narendra Villa',	]	
New Viva College Road,	]	
Virar (W), District: Palghar	]	... Petitioner

V/s.

1. State of Maharashtra	]	
Through The Urban Development	]	
and Town Planning Department	]	
Through the Principal Secretary	]	
Having Office at 4 th Floor, Mantralaya,	]	
Mumbai – 400 021.	]	
2. Vasai Virar City Municipal Corporation	]	
Opp. Virar Police Station, Bazaar ward,	]	
Virar East, Maharashtra – 401 305.	]	
3. Town Planning Department Vasai	]	
Virar City Municipal Corporation,	]	
Opp. Virar Police Station, Bazaar ward,	]	
Virar East, Maharashtra 401305	]	... Respondents

Mr. Murtaza Najmi a/w. Adv. Shambhu Jha, Adv. Farida Najmi, Adv. Suraj Pandey, Adv. Afsar Ansari, Adv. Nancy K., Adv. Aashish Pathak and Adv. Kalpesh Gharat for the Petitioner.

Mr. A. I. Patel, Addl. GP a/w. Smt. Tanu N. Bhatia, AGP, for the Respondent No.1-State.

Mr. Vishwanath Patil, for Respondent Nos.2 and 3-VVCMC.

CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.

DATE : 22nd April 2026

JUDGMENT (Per : A.S. Gadkari, J.) :-

1) Rule. Rule made returnable forthwith and with the consent of learned Advocates for the respective parties taken up for final hearing.

2) By this Petition under Article 226 of the Constitution of India, the Petitioner, owner of Survey No.317, Hissa No.3, 4 & 12E, situated at Village Virar, New Viva College Road, Taluka Vasai, District Palghar, ('said plot of land') is seeking a writ of Mandamus for declaring that, the reservation on the said plot of land has lapsed and the said land be released from reservation as contemplated under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 ('MRTP Act').

3) Heard Mr. Najmi, learned Advocate for the Petitioner, Mr. Patel, learned Additional G.P. for Respondent No.1, State and Mr. Patil, learned Advocate for Respondent Nos.2 and 3. Perused the record and the Affidavit of Mr. Y. S. Reddy, Deputy Director of Respondent No.3, dated 21st March, 2025.

4) The Petitioner is owner of the said plot of land. The Development Plan for the Respondent No.2, Corporation was sanctioned on 9th February, 2007 by the Government of Maharashtra and the said plot of land belonging to the Petitioner has been shown to be reserved for Market Garden, Community Center and 20 mtr. D. P. Road. The Respondent No.1

did not acquire the land of the Petitioner within a period of 10 years as contemplated under Section 126 of the MRTP Act. The said lapsing occurred on 9th February, 2017. Petitioner therefore issued a Notice under Section 127 of MRTP Act, dated 28th March, 2018 to the Commissioner of Respondent No.2. By the said Notice, the Petitioner called upon the concerned Authority to either acquire his land or release it from the said reservation.

4.1) Record indicates that, there was no response to the said Notice by Respondent Nos.2 and 3. In this precise background, present Petition was filed on 1st November, 2023.

5) Mr. Y. S. Reddy, Deputy Director of Town Planning Department of Respondent Nos.2 and 3 has filed an Affidavit dated 21st March, 2025. In paragraph No.4 thereof, it is admitted that, the Respondent- Corporation by its letter dated 3rd March, 2025 informed the Petitioner that, the reservation upon his land has lapsed by operation of law. Moreover, the Respondent No.2-Corporation doesn't have budgetary provision for the purchase of the land under reservation and consequently it is unable to provide monetary compensation for the said land.

5.1) It is also stated that, the Petitioner can handover the land to the Respondent-Corporation and would be granted compensation in the form of TDR as per Unified Development Control Rules ('UDCPR'). It be noted here that the offer for granting TDR in lieu of monetary

compensation was communicated to the Petitioner by an alleged communication dated 3rd March, 2025, which was also made after a lapse of about one and half years from the date of filing of present Petition.

5.2) It appears to us that the said communication dated 3rd March 2025 addressed to the Petitioner was purely an afterthought, with a view to create a record and nothing else.

6) In view of the afore-stated facts, it is abundantly clear that the said reservation on the Petitioner's land as specifically described in the Petition and prayer clauses has lapsed as contemplated under Section 127(1) of the MRTP Act.

7) We find that the concerned authorities clearly ignored the directions issued in the various Judgments of this Court. They appear to be bent upon in harassing the citizens for the reasons best known to them.

8) In *Shivgonda Anna Patil v Sangli Miraj and Kupwad City Municipal Corporation* reported in 2023:BHC-AS:29348-DB : *MANU/MH/4034/2023*, this Court reiterated the dictum laid down in *Uday Madhavrao Patwardhan and Others v Sangli, Miraj, Kupwad Municipal Corporation, Sangli and Others*, reported in (2015) SCC OnLine Bom 659, namely that, there is no requirement for the owner to seek a declaration from the Court of Law on the basis of Notice under section 127. The effect of lapsing of reservation on the basis of the notice is automatic. Similarly, this Court in the cases of *Chetan & Ors. vs. State of Maharashtra & Ors.*,

reported in 2024 SCC OnLine Bom 3946 and equivalent citation is 2024 3 AIR Bombay R 208, Sampat & Ors. Vs. State of Maharashtra, Through its Secretary & Ors., reported in 2024 SCC OnLine Bom 2463, Sakharam Mahadev Jadhav vs. State of Maharashtra & Ors., reported in 2024 SCC OnLine Bom 2791, Shankar Newandram Budhwani vs. Chief Officer, Vita Municipal Council & Ors., reported in 2025 SCC OnLine Bom 198, Sunil Laxman Dond & Ors. vs. Commissioner, Nashik Municipal Corporation & Ors., reported in 2025 SCC OnLine Bom 1169.

9) Despite the aforesaid Judgments, the Respondent has not only failed to respond to the Petitioner even after filing of the present Petition, but has also failed to notify the lapsing of reservation.

10) We accordingly pass the following Order:

(a) Petition is allowed in terms of prayer clauses (a) and (b).

(b) The State Government to notify the lapsing of the reservation of the Petitioner's land by publishing it in the Official Gazette as per Section 127(2) of the MRTP Act, within a period of 6 weeks from the date of uploading of the present Judgment on the official website of the High Court of Bombay.

11) Rule is made absolute in the aforesaid terms.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)