

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7963 OF 2025

1. Atmaram Baburao Shendkar

Age:- 64 years, Occu:- Farmer
Residing A/P Chambali Tal. Purandar,
Dist. Pune – 412 301

2. Sopan Baburao Shendkar

Age:- 68 years, Occu:- Farmer
Residing A/P Chambali. Tal. Purandar,
Dist. Pune – 412 301

3. Balu Mansingh Kanse

Age:- 64 years, Occu:-Retired School Teacher
Residing A/P. Jejuri, Near Lavathaleshwar Temple,
Tal. Purandar. Dist. Pune – 412 303

4. Minakshi Baban Katkar

Age:- 62 years, Occu:-Retired School Teacher
Residing A/P Saswad, Swami Samarth Society,
Plot no. 16, Saswad, Tal. Purandar,
Dist. Pune – 412 301

5. Namrata Avinash Kuchekar

Age:- 41 years, Occu:-School Teacher
Residing A/P Alande, Tal. Bhore,
Near Hanuman Mandir, Alande,
Dist. Pune – 412 205

6. Nandkishore Baburao Memane

Age:- 45 years, Occu:-Private Service.
Residing at. Flat No. 13, Jyoti Complex,
Taradatta Purve, A/P Saswad, Tal. Purandar,
Dist. Pune – 412 301

7. Jalindar Gulab Ghate

Age:- 57 years, Occu:- School Teacher
Residing A/P Kolwihare, Jejuri,
Tal. Purandar, Dist. Pune – 412 306

8. Rekha Subhash Mohite

Age:- 57 years, Occu:-Housewife, Farmer
Residing at Near Hanuman Mandir, Bajrangwadi,
Tal. Baramati, Dist. Pune – 412 103

9. Pushpa Santoshkumar Jagtap

Age:- 45 years, Occu:-
Residing at Vinayak Housing Society,
Survey No. 5A/1/4/2, Saswad, Tal. Purandar,
Dist. Pune - 412 301

10. Seema Popatrao Takawale

Age:- 49 years., Occu:-
Residing A/P Jejuri, Dhalewadi Road,
Tal. Purandar Dist. Pune – 412 303

11. Sambhaji Appa Khore

Age:- 45 years, Occu:- Primary School Teacher
Residing at Khore Wasti, Baburdi,
Tal. Baramati, Dist. Pune 412 204

12. Baburao Sitaram Memane

Deceased hence through legal heirs

A. Digambar Baburao Memane

Age:-42 years, Occu:- SRPF Police
Residing at Flat No. 13, Jyoti Complex,
Taradatta Purve Society, A/P Saswad,
Tal. Purandar, Dist. Pune – 412 301

B. Laxmi Baburao Memane

Age:- 65 years, Occu:-Household
Residing A/P Jogawadi, Tal. Baramati,
Dist. Pune – 412 303

C. Vaishali Sandeep Yadav

Age:- 40 years, Occu:- Housewife
Residing A/P Kolwihare, Tal. Purandar,
Dist. Pune - 412 306

13. Santoshkumar Anatrao Jagtap

Age:- 45 years, Occu:- Doctor
Residing at Vinayak Housing Society,

Survey no. 5A/1/4/2, Saswad,
Tal. Purandar Dist. Pune – 412 301

14. Vilas Sudam Ghate

Age:- 45 years, Occu:-Service
Residing A/P Kolwihare, Tal. Purandar,
Dist. Pune - 412 306

15. Sanjay Bajirao Jagtap

Age:- 58 years, Occu:-Business
Residing at Near Old Post office, Saswad,
Tal. Purandar, Dist. Pune – 412 301

16. Manisha Mahesh Pawar

Age:- 53 Years,, Occu:-Advocate
Residing at B-179/3,
Government Colony, Bandra East
Bandra, Mumbai 400051

17. Tushar Dilip Zagade

Age:- 35 years, Occu:- Business
Residing A/P Kolwihare,
Tal. Purandar, Dist. Pune – 412 306

18. Shrikant Ashok Wadhane

Age:- 41 years, Occu:-Police
Residing A/P Saswad, Near Uttam Dhaba,
Aai Bungalow, Purandar Park, Saswad,
Tal. Purandar, Dist Pune – 412 301

19. Chaya Ashok Kolate

Age:- 60 years, Occu:-Housewife
Residing at Near Corporation School,
Survey No. 165, Janata Vashat,
Malwadi Hadapsar, Pune 411 028

20. Ravindra Tukaram Kamble

Age:- 48 years, Occu:-Service
Residing at 252, Pimpale Gavathan,
Near Hanuman Mandir, Ashok Nagar,
Pimpale, Tal. Purandar, Dist. Pune – 412 301

21. Subhash Shankarrao Mohite

Age:- 66 years, Occu:- Farmer
Residing A/P Bajrangwadi, Late,
Tal. Baramati, Dist Pune. 412 103

22. Mangal Shamrao Badadhe

Age:- 61 years, Occu:-Housewife
Residing A/P Kodit, Tal. Purandar,
Dist. Pune – 412 301

23. Rahul Shyamrao Badadhe

Age:- 39 years, Occu:-Military Service
Residing A/P Kodit, Tal. Purandar,
Dist. Pune – 412 301

24. Ratan Shyamrao Badadhe

Age:- 37 years, Occu:-Retired Military Officer
Residing A/P Kodit, Tal. Purandar,
Dist. Pune – 412 301

25. Dashrath Dhondiba Mhaske

Age:- 70 years, Occu:-Retired Military Officer
Residing at Plot no. 47, Trishul Housing Society,
Saswad, Tal. Purandar, Dist. Pune – 412 301

26. Tanaji Dadoba Lole

Age:- 68 years, Occu:-Retired
Residing at Near Police Station, Charkop Sector 2,
Kandivali West, Mumbai – 400 067

27. Sunil Shankarrao Landge

(Deceased through legal heirs)

A. Prathamesh Sunil Landge

Age:- 34 years, Occu:- Business
Residing at Landge Complex, Main road,
Amar chowk, Saswad, Tal. Purandar,
Dist. Pune – 412 301

B. Shounak Sunil Landge

Age:- 29 years, Occu:- Business
Residing at Landge Complex, Main road,
Amar Chowk, Saswad, Tal. Purandar,

Dist. Pune – 412 301

C. Manisha Sunil Landge

Age – 67 years, Occup – Housewife
Residing at Landge Complex, Main road,
Amar Chowk, Saswad. Tal. Purandar,
Dist. Pune – 412 301

....Petitioners

Versus

1. The State of Maharashtra

By and through its
Urban Development Department
Mantralaya-Mumbai-01

2. Saswad Municipal Council

By and through its Chief Officer
Office at Saswad, Tal:-Purandar,
District:-Pune 415 110
saswadmc@gmail.com

3. Town Planning and Valuation Department

By and through its Director
Having office at Ground Floor,
Central Building, Pune-411001
ddtp.ho@maharashtra.gov.in

4. Town Planning and Valuation Department

Baramati Division, Baramati
By and through its Director
Having office at Main Building,
Administrative Bhavan, Third Floor
Baramati, District Pune-413102
(For Respondent nos. 1, 3 and 4 the
Copy to be served upon the A.G.P.,
Writ (Cell), High Court, Mumbai)

....Respondents

Mr. Ashutosh Kulkarni i/b. Mr. Sarthak S. Diwan and Ms. Rupa J. Singh for the Petitioners.

Mr. Aditya R. Deolekar, AGP for Respondent Nos.1, 3 and 4.

Mr. Sarang S. Aradhya a/w. Ms. Gauri Velankar for Respondent No.2.

**CORAM : RAVINDRA V. GHUGE
&
ABHAY J. MANTRI, JJ.**

DATE : 10th APRIL, 2026

ORAL JUDGMENT (PER : RAVINDRA V. GHUGE, J.)

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

2. The oral submissions of the learned Advocates Mr. Kulkarni on behalf of the Petitioners, Mr. Aradhye on behalf of Respondent No.2 and the learned AGP on behalf of the State, were heard on 7th April, 2026, 8th April, 2026 and 9th April, 2026. Due to paucity of time, this matter was listed today for dictation of judgment.

3. The dates and sequence of events in the matter concerning lapsing of reservation, are relevant. Hence, we are summarizing the same as under :

(a) The first development plan of the Respondent – Saswad Municipal Council (hereinafter referred to as the ‘Council’) was sanctioned on 29th December, 1988 which came into effect on 15th May, 1989. The reservation was for ‘*Primary School and Play Ground*’.

(b) On 27th May, 2003, the Municipal Council passed a resolution declaring that the land is not

required by the Council and it was decided to communicate to the Urban Development Department that the Council does not require the said land.

(c) The Council once again wrote to the Town Planning Department on 30th December, 2005 reiterating that the land is not required.

(d) The Predecessor in title issued a purchase notice dated 19th June, 2006 under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as 'MRTP Act'). A photostat copy of the said purchase notice bearing inward stamp of the Saswad Municipal Council dated 19th June, 2006 (2 pages) is tendered across the bar. The same is taken on record and marked as 'X' for identification. The six months period lapsed on 19th December, 2006.

(e) As the law stood then, the timeline for the lapsing of reservation and for the accrual of rights to the owner or person having an interest in the property, was six months. This timeline was amended and extended to one year in 2015, and is now two years pursuant to the amendment made in 2021.

(f) The present Petitioners purchased the Writ land in 2011.

(g) The second revised development plan was sanctioned and published on 23rd June, 2017, indicating the same reservation for '*Primary School and Playground*'.

(h) The second revised development plan was sanctioned after 19th December, 2006, i.e., upon the lapse of ten years and six months, by which time the reservation had already deemed to have lapsed.

(i) Some of the Petitioners approached the Council by making an application on 25th June,

2019 seeking development permission, which came to be rejected on 3rd March, 2020.

(j) The Petitioners issued a purchase notice under Section 49 of the MRTP Act on 2nd August, 2021.

(k) The Council, by its communication dated 8th October, 2021, called upon the Petitioners to submit documents in support of their claim.

(l) On 13th October, 2021, the Respondent Council called upon the Petitioners to remain present for a hearing scheduled on 21st October, 2021.

(m) Respondent No.3 conducted the hearing on 21st October, 2021 and rejected the purchase notice on the ground of non-submission of certain documents.

(n) The Petitioners again issued a purchase notice under Section 49 of the MRTP Act on 18th August, 2022.

(o) Respondent No.4 submitted its detailed report to Respondent No.3 on 23rd November, 2022.

(p) The Council submitted its report dated 8th December, 2022 to Respondent No.3, recommending not to confirm the purchase notice.

(q) The Council forwarded a proposal to the District Collector for acquisition of the Suit property on 24th January, 2023.

(r) Respondent No.3, by order dated 9th February, 2023, confirmed the purchase notice dated 18th August, 2022.

(s) On 6th March, 2023, Respondent No.3 addressed a communication to the Council informing it of the confirmation of the purchase notice and calling upon it to submit a proposal for acquisition within the prescribed period of one year under Section 49(7) of the MRTP Act.

(t) However, between 6th March, 2023 and the filing of this Petition on 3rd May, 2025, and even as of today, the Council has not taken any steps for acquisition of the land under reservation.

4. The issue before us is, as to what would be the fate of the revised development plan dated 23rd June, 2017, due to the lapsing of the reservation pursuant to the purchase notice dated 19th June, 2006 issued under Section 127 of the MRTP Act, upon the expiry of the six months period on 19th December, 2006?

5. For clarity and ready reference, we are reproducing Section 127 of the MRTP Act, as it stood in 2006, hereunder :

127. Lapsing of reservations. - 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 proceedings for the acquisition of such land under this Act or under the Land Acquisition Act, 1894, are not commenced within such period, the owner or any person interested in the land may serve notice on the Planning Authority, Development Authority or as the case may be, Appropriate Authority to that effect; and if within six 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 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.

6. The learned Advocates Mr. Kulkarni and Mr. Aradhye have vehemently canvassed their grounds and contentions. Mr. Kulkarni has cited the following judgments :

(i) *Chhabildas v/s. State of Maharashtra and Ors.*¹

(ii) *Prafulla C. Dave and Ors. v/s. Municipal Commissioner and Ors.*²

(iii) *Kolhapur Municipal Corporation and Ors. v/s. Vasant Mahadev Patil (dead) and Ors.*³

(iv) *Hasina Kudbuddin Shaikh and Ors. v/s. Karad Municipal Council and Ors.*⁴

7. Mr. Aradhye has cited the following judgment :

*Shrichand Girdharilal Punjabi v/s. Municipal Corporation of Gr. Mumbai and Anr.*⁵

8. Having gone through the cited reports, we find that, except *Chhabildas* (supra), *Hasina Kudbuddin Shaikh* (supra) and *Kolhapur Municipal Corporation* (supra), the other judgments are distinguishable on facts and do not relate to the issue raised before

1 (2018) 2 SCC 784

2 (2015) 11 SCC 90

3 (2022) 5 SCC 758

4 (2019) 1 Mh. L.J. 126

5 (2008) 5 Mh. L.J. 397

us. We are, therefore, adverting to the above three reports, in details.

9. In *Chhabildas* (supra), the issue pertaining to a purchase notice under Section 49(7) of the MRTP Act was dealt with. The facts of the case in *Chhabildas* (supra) are set out in paragraph nos.2 to 6 of the said judgment, which read as under :

“2. On 11-2-2002, the Development Plan of Jalgaon City was sanctioned by the State Government. The appellant's land bearing Gut No. 37/1 adm. 42-R, situated at Mauje Pimprala, was reserved for primary school and playground.

3. On 7-5-2007, the appellant issued a purchase notice under Section 49(1) (e) of the Act stating that as their land was reserved for the aforesaid purposes. the owner was unable to sell it, except at a price lower than that at which it could reasonably be expected to sell, if it was not so designated.

4. On 12-12-2007, the State Government confirmed the aforesaid purchase notice and stated that proceedings for acquisition of land shall be initiated within one year i.e. before 12-12-2008 as per Section 49(7) of the Act.

5. Within the aforesaid period, the Commissioner, Jalgaon, submitted a proposal for acquisition of the aforesaid land to the Collector, Jalgaon on 26-9-2008. This was followed by a letter dated 28-1-2009 issued by the Collector, appointing the SDO, Jalgaon, to complete the acquisition process as laid down by the Act. Since nothing further transpired, the owner of the land wrote a letter to the Commissioner, Jalgaon on 15-1-2014, stating that since no action has taken place in furtherance of

the acquisition proposal. the said proposal has lapsed and that, therefore, the land should be returned to the owner. On 28-3-2014, the Assistant Director, Town Planning, Jalgaon Municipal Corporation, wrote back to the owner stating that the land acquisition proposal by the Municipal Corporation "is in process" and stated that, as Section 49(7) was satisfied on the facts of the present case, there was no lapse. A writ petition dated 2-5-2014 was then filed by the owner before the Aurangabad Bench of the Bombay High Court, which came to be dismissed by the impugned judgment dated 5-12-2014, stating that Section 127 of the Act alone deals with lapsing of reservation, and that as the purchase notice was issued under Section 49, the said section would apply only when a person needs to develop his land immediately. In the present case, the appellant failed to make out any such urgent need and since the Municipal Corporation had already moved the State Government for acquisition of the appellant's land, the writ petition was dismissed.

6. The learned counsel appearing on behalf of the appellant before us has taken us through the aforesaid provisions of the Maharashtra Regional and Town Planning Act, 1966 and has argued that after the appropriate authority makes an application to acquire the land consequent upon the purchase notice issued under Section 49, either the land ought to be acquired within a reasonable time therefrom or should be released from the designation in the development plan as per Section 50 of the Act. The impugned judgment was wholly incorrect in stating that there was no urgent need. Besides, Section 49 applies to the purchase notice at hand, inasmuch as it is clear that the owner is unable to sell the land, thanks to the reservation made. This being the case, over 10 years having lapsed since the date of the purchase notice, the owner's land should be declared to be free of the designation

set out in the development plan.

10. It was canvassed in *Chhabildas* (supra), on behalf of the Government, that the schemes under Sections 49 and 127 are distinct, and that no lapsing can take place under Section 49 of the MRTP Act, once Section 49(7) stands satisfied, since the owner has not issued any fresh purchase notice under Section 127 of the MRTP Act. It was, therefore, argued that no lapsing can be said to have taken place.

11. The Hon'ble Supreme Court considered the effect of Section 49 of the MRTP Act in paragraph nos.8 to 18 of *Chhabildas* (supra), which read thus :

8. The scheme of Section 49 of the MRTP Act is to lay down timelines within which the appropriate authority must make an application to acquire the land in respect of which a purchase notice has been confirmed. The moment any of the conditions specified in sub-section (1) are met, the owner or person affected may serve on the State Government, within the time and manner prescribed by the Regulations, a purchase notice requiring the appropriate authority to purchase the interest in the land in accordance with the provisions of this Act.

9. On the receipt of the purchase notice as per sub-section (3), the State Government is to forthwith call from the planning authority or the appropriate authority such report or records as

may be necessary, which the authority shall then forward to the State Government as soon as possible but not later than 30 days from the date of acquisition.

10. In sub-section (4), if the State Government is satisfied that the conditions specified in sub-section (1) are fulfilled, it may either confirm the purchase notice; refuse to confirm the purchase notice; or direct that planning permission be granted with or without conditions. Under sub-section (5), if the steps contemplated after service of purchase notice leads to a situation where the State Government does not pass any orders thereon, the notice shall be deemed to have been confirmed at the expiration of that period. And finally, under sub-section (7), if within one year from the date of confirmation of purchase notice, the appropriate authority fails to make an application to acquire the land in respect of which the purchase notice has been confirmed, the reservation, designation, allotment, indication or restriction on development of the land shall be deemed to have lapsed. Section 49(6), which was deleted by Maharashtra Act 6 of 1976, read as follows :

49. (6) Upon confirmation of the notice, the State Government shall proceed to acquire the land or that part of any land regarding which the notice has been confirmed, within one year of the confirmation of the purchase notice, in accordance with the provisions of Chapter VII.

It is clear that, under this provision, if within one year from the confirmation of the purchase notice, the State Government did not acquire the land, then the consequence would be that the acquisition shall be deemed to have lapsed. This was a salutary provision, but seems to have been deleted so that Section 49 cases are brought on a par with Section 126 cases.

11. *The object of Section 49 is thus clear that once a purchase notice is received by the authorities, there arises, as the marginal note to the section also indicates, an obligation to acquire land. The timelines contemplated by the section also indicate that the owner or person affected cannot be left to hang indefinitely without a decision to follow up the purchase notice by acquisition of the land in question.*

12. *However, it has been argued on behalf of the State that Section 49 abruptly ends with sub-section (7), after which there are no timelines indicated as to what is to happen after the appropriate authority makes an application to acquire the land within one year from the date of confirmation of the notice. In our view, this argument must be rejected, inasmuch as Section 49(1) itself states that the purchase notice must require the appropriate authority to purchase the interest in the land “in accordance with the provisions of this Act”. This being so, once the appropriate authority makes the necessary application to acquire the land within time under Section 49(7), we move over to Sections 126 and 127 of the Act.*

13. *Under Section 126(1)(c), when after the publication of a draft regional plan or development or other plan, any land is required or reserved for a public purpose, the appropriate authority may make an application to the State Government, for acquiring such land under the Land Acquisition Act. Under sub-section (2) thereof, on receipt of such application, if the State Government is satisfied that the land specified in the application is needed for the public purpose specified therein, then excepting the cases falling under Section 49, the State Government may make a declaration under Section 6 of the Land Acquisition Act, to that effect. However, such declaration under Section 126(2) must be made*

within a period of one year from the date of publication of the plan in question.

14. *A purchase notice may be served under Section 49, after the expiry of one year from the date of publication of the plan in question, in which a case Section 126(2) of the Act will not apply. Under Section 126(4), the State Government may make a declaration under Section 6 subject to the modification that the market value of the land shall be the market value at the date of the declaration in the Official Gazette made for acquiring the land. But this does not mean that the State Government has carte blanche to do as it pleases. Ordinarily, the State Government is bound to act under Section 126(4) within a reasonable time from the appropriate authority making an application to acquire the land. This should ordinarily be within a period of one year from the date such an application is made. However, if such declaration is not made within the aforesaid period, it will be open for the aggrieved person to move the Court to direct the State Government to make the requisite declaration immediately.*

15. *But the matter does not end here. Thereafter, Section 127 kicks in. If a declaration under Section 6 of the Land Acquisition Act is not made within a period of 10 years from the date on which a plan comes into force under sub-section (4) of Section 126, the owner or any person interested in the land may serve a purchase notice on the authorities, and if within one year from the date of service of such notice, the land is not acquired or no steps are commenced for its acquisition, the reservation, allotment or designation shall be deemed to have lapsed.*

16. *The aforesaid scheme of Sections 126 and 127 has been the subject-matter of several judgments of this Court. In Girnar Traders v. State of Maharashtra, a three-Judge Bench, by a*

majority judgment delivered by Naolekar, J. framed the question before the Court thus: (SCC p. 573. para 19)

19. The question that requires consideration and answer in the present case is: Whether the reservation has lapsed due to the failure of the planning authority to take steps within the period of six months from the date of service of the notice of purchase as stipulated by Section 127 of the MRTP Act; and also the question as regards applicability of new Section 11-A of the LA Act to the acquisition of land under the MRTP Act.

17. After setting out Sections 126 and 127, this Court then laid down the scheme of Section 126, which makes it clear that the Section 6 notification under the Land Acquisition Act is to be issued, in cases where acquisition is made under Section 126(1)(c), in pursuance of an application by an appropriate authority to the State Government within one year from the publication of the plan in question, or by way of the State Government making a fresh declaration beyond a period of one year under Section 126(4). This is stated by the Court in para 28 as follows: (Girnar case, SCC p. 576)

28. Sub-section (2) of Section 126 provides for one year's limitation for publication of the declaration from the date of publication of the draft plan or scheme. Sub-section (4), however, empowers the State Government to make a fresh declaration under Section 6 of the LA Act even if the prescribed period of one year has expired. This declaration is to be issued by the State Government for acquisition of the land without there being any application moved by the planning/local authority under clause (c) of Section 126(1).

18. *Insofar as Section 127 is concerned, the Court went on to hold: (Girnar case, SCC pp. 577-78, paras 31-32)*

31. Section 127 prescribes two-time periods. First, a period of 10 years within which the acquisition of the land reserved, allotted or designated has to be completed by agreement from the date on which a regional plan or development plan comes into force, or the proceedings for acquisition of such land under the MRTP Act or under the LA Act are commenced. Secondly, if the first part of Section 127 is not complied with or no steps are taken, then the second part of Section 127 will come into operation, under which a period of six months is provided from the date on which the notice has been served by the owner within which the land has to be acquired or the steps as aforesaid are to be commenced for its acquisition. The six month period shall commence from the date the owner or any person interested in the land serves a notice on the planning authority, development authority or appropriate authority expressing his intent claiming dereservation of the land. If neither of the things is done, the reservation shall lapse. If there is no notice by the owner or any person interested, there is no question of lapsing reservation, allotment or designation of the land under the development plan. Second part of Section 127 stipulates that the reservation of the land under a development scheme shall lapse if the land is not acquired or no steps are taken for acquisition of the land within the period of six months from the date of service of the purchase notice. The word “aforesaid” in the collocation of the words “no steps as aforesaid are commenced for its acquisition” obviously refers to the steps contemplated by Section 126 of the MRTP Act.

32. If no proceedings as provided under Section 127 are taken and as a result thereof the reservation of the land lapses, the land shall be released from reservation, allotment or designation and shall be available to the owner for the purpose of development. The availability of the land to the owner for the development would only be for the purpose which is permissible in the case of adjacent land under the relevant plan. Thus, even after the release, the owner cannot utilise the land in whatever manner he deems fit and proper, but its utilisation has to be in conformity with the relevant plan for which the adjacent lands are permitted to be utilised.

12. ***Girnar Traders v/s. State of Maharashtra***⁶ was considered by the Hon'ble Supreme Court while dealing with *Chhabildas* (supra) and it was finally held in paragraph nos.22 to 30 as under :

22. It is, thus, clear that the scheme of Sections 126 and 127 would leave nobody in doubt, for the reason that if a period of 10 years has elapsed from the date of publication of the plan in question, and no steps for acquiring the land have been taken, then once a purchase notice is served under Section 127, steps to acquire the land must follow within a period of one year from the date of service of such notice, or else the land acquisition proceedings would lapse.

23. On a conspectus of the above authorities, the following position in law emerges :

23.1. In all Section 49 cases, where a purchase notice has been served and is

⁶ (2007) 7 SCC 555

confirmed within the period specified, the appropriate authority must make an application to acquire the land within one year from the date of confirmation of the notice. If it does not do so, the reservation, designation, etc. shall be deemed to have lapsed.

23.2. If within the period specified in Section 49(7), the appropriate authority makes the requisite application, then the State Government may acquire the land by making a declaration under Section 6 of the Land Acquisition Act as set out under Section 126(4), wherein the market value shall be the market value of the land as on the date of Section 6 declaration. Ordinarily, such declaration must be made within 1 year of the date of receipt of the requisite application. In case this is not done, it will be open to the aggrieved person to move the Court to direct the State Government to make the requisite declaration immediately.

23.3. If 10 years have passed from the date of publication of the plan in question, and a purchase notice has been served under Section 127, and no steps have been taken within a period of one year from the date of service of such notice, all proceedings shall be deemed to have lapsed. Thus, even in cases covered by Section 49, the drill of Section 126(4) and Section 127 will have to be followed, subsequent to the appropriate authority making an application to acquire the land within the period specified in Section 49(7).

*24. The learned counsel appearing for the State has relied upon this Court's judgment in *Prakash R. Gupta v. Lonavala Municipal Council*, wherein this Court held that the scheme contemplated by Section 49 is totally different*

from that of Section 127, for the reason that there is no period of 10 years in Section 49 as mentioned in Section 127.

25. *This judgment does not carry the matter any further as it is clear that, once an application is made within the requisite period contained in Section 49(7), land acquisition must follow in terms of Section 49(1) to purchase the interest in the land, in accordance with the provisions of the MRTP Act, as indicated above.*

26. *This Court, in Hasmukhrai V. Mehta v. State of Maharashtra, held that where an inordinately long delay takes place from the date on which the appropriate authority makes an application to acquire the land (in that case 20 years), the land in question stands released from reservation.*

27. *In the aforesaid judgment, the purchase notice under Section 49 of the Act was dated 17-8-2000. The Director, Town Planning, wrote a letter to the Chief Officer of the Khopoli Municipal Council stating that proceedings for land acquisition for an Agricultural Produce Market Yard would be initiated within one year from 16-3-2001. Consequently, the Khopoli Municipal Council wrote a letter on 23-4-2001 to the Agricultural Produce Market Committee to initiate acquisition proceedings. As nothing was done, the appellant ran from pillar to post and ultimately filed a writ petition in February 2004, complaining that the respondents are neither acquiring the land belonging to the appellant nor releasing the same from reservation for the Agricultural Produce Market Yard. The High Court dismissed the aforesaid writ petition stating that as the provisions of Section 127 were not attracted, there could be no lapse. This Court, after referring to Sections 49 and 127 of the Act, held: (Hasmukhrai case, SCC p. 160, para 12)*

12. We think it pertinent to mention here that APMC, Respondent 5, even after service of notice, has not cared to contest this appeal. Also, we think it relevant to mention that till date no steps appear to have been taken for acquisition of the land in question or to release the same. The land of the appellant, in our opinion, cannot be held up, without any authority of law, as neither the same is purchased till date by the respondent authorities, nor acquired under any law, nor the appellant is being allowed to use the land for the last more than twenty years."

28. It thereafter referred to T. Vijayalakshmi v. Town Planning Member and Girnar case and then held: (Hasmukhrai case, SCC pp. 162 & 163, paras 15 & 18)

15. In view of the principle of law laid down by this Court, as above, we are of the view that in the present case since neither have steps been taken by the authorities concerned for acquisition of the land, nor is the land of the appellant purchased under purchase notice, nor is he allowed to use the land for the last more than twenty years, the land will have to be released as the appellant cannot be deprived from utilising his property for an indefinite period.

18. Accordingly, we allow the appeal and set aside the impugned order passed by the High Court. Since no steps appear to have been taken till date for the last more than twenty years either for acquisition or for purchase of the land under the MRTP Act, 1966 by the authorities concerned, as such, the land in question stands released from reservation under Section 127 of the MRTP Act.

29. The aforesaid judgment lays down that since more than 20 years had elapsed since the

date of the purchase notice under Section 49 on the facts of that case, the land will have to be released from acquisition. No doubt this Court held that over 20 years is an inordinately long period of delay, and therefore, lapsing has taken place under Section 127 of the MRTP Act. However, on the facts of that case, no purchase notice under Section 127 was issued after, 10 years had elapsed from the date of publication of the requisite plan. This being the case, we read the judgment as having allowed a lapse to take place, in view of the inordinately long delay of over 20 years, by really doing complete justice on the facts of that case under Article 142 of the Constitution of India.

30. In the present case, 15 years have passed since the date of publication of the development plan, and over 10 years have passed since the date of the purchase notice issued under Section 49. Considering the fact that there has been no stay at any stage by any court, it is clear that an inordinately long period of time has elapsed, both since the date of publication of the development plan, as well as the date of the purchase notice served under Section 49. No doubt, the letter of 26-9-2008 shows that an application was made within the requisite time period to acquire the aforesaid land. However, on the facts of this case, since after the aforesaid letter nothing has been done to acquire the appellant's property, we are of the view that the reservation contained in the development plan as well as acquisition proposal have lapsed. We make it clear that we hold this in order to do complete justice between the parties under Article 142 of the Constitution of India. However, in all future cases that may arise under the provisions of Section 49, the drill of Section 127 must be followed i.e. that after 10 years have elapsed from the date of publication of the relevant plan, a second purchase notice must be served in accordance with the provisions of Section 127, in order that lapsing can take place

under the aforesaid section. With these observations, the appeal is disposed of.

13. The facts of the case before us are quite clear. The owner of the property has already followed the drill as required under Sections 126 and 127 of the MRTP Act. On 19th June, 2006, considering the effect of Section 127 prior to the amendment, the reservation was deemed to have lapsed after six months on 19th December, 2006. It is well settled that, in every case, litigants are not required to approach the High Court seeking a Writ of Mandamus to direct the acquiring authority to forward a proposal to the Government for declaring the lapsing of the reservation, followed by action on the part of the Government under Section 127(2) of the MRTP Act to issue a notification to that effect. In effect, the reservation in this case lapsed on 19th December, 2006.

14. In *Prafulla C. Dave* (supra), the Hon'ble Supreme Court concluded that if a revised development plan is sanctioned prior to the issuance of a notice under Section 127 of the MRTP Act, such notice would stand neutralised, and a fresh lease of life of ten years from the date of the sanction of the revised development plan would commence, and the owner could issue a notice under Section 127

only after the lapse of such further period of ten years. It is also held that if the revised development plan is sanctioned after the expiry of the period of two years from the date of the purchase notice under Section 127, such revised development plan would not affect the claim of the owner, and the reservation on the land would be deemed to have lapsed.

15. In *Hasina Kudbuddin Shaikh* (supra), this Court dealt with a somewhat similar case to the one before us. Paragraph nos.12 to 15 form the conclusions of this Court, which read as under :

12. Now this takes us to consider the effect of the sanction of the second revised draft development plan on 7th October, 2016. By this notification dated 7th October, 2016, the Government reinstated the earlier reservation No.46 on the subject land. The reinstatement of the reservation is of no consequence after lapsing of reservation under section 127 of the MRTP Act and the law in this regard is no more res integra. The Division Bench of this Court in Baburao Dhondiba Salokhe versus Kolhapur Municipal Corporation, Kolhapur and anr. 2003 (3) Mh.L.J. after considering the decision of Apex Court in Bhavnagar University AIR 2003 SC 511, in paragraph 17 held as follows :

17. The legal position as regards MRTP Act on the basis of aforesaid observations made by Apex Court in Bhavnagar University emerges that by imposition of a statutory obligation under section 38 on the part of the State or the appropriate authority to revise the development plan the rights of the

owners accrued in terms of section 127 are not taken away. Section 38 of MRTP Act, in our opinion, does not and cannot be read to mean that substantial right conferred upon the owner of the land or the person interested under section 127 is taken away. In other words, section 38 does not envisage that despite the fact that in terms of section 127, the reservation lapsed, only because of a draft revised development plan or final revised development plan is made would automatically result in revival of reservation that had lapsed. If the reservation of the petitioner's land for the purposes of garden had lapsed and as we found in fact has lapsed in 28-2-1992, because of draft revised plan made in the year 1992 and thereafter final revised development plan sanctioned in the year 1999 would not revive the lapsed reservation.

13. The decision of Baburao Dhondiba Salokhe (supra) was followed by another Division Bench in Kishor Gopalrao Bapat and ors. Versus State of Maharashtra and anr. 2005(4) Mh.L.J.466 and Kishor S/o.Siddeshwar Wadotkar (Dr.) vs. Director of Town Planning and ors. 2007(3) Mh.L.J.399.

14. In the light of the above, we are of the opinion that once the reservation is lapsed, the same cannot be revived. In view of the contingencies mentioned in section 127 of the MRTP Act, the necessary consequence under the scheme of section 127 of the MRTP Act must follow. The land which is released from reservation becomes available to the owner for the purpose of development. This right which is conferred or accrued to the owner of the land due to lapsing of reservation cannot be taken away by the Planning Authority by exercising power under section 38 of the MRTP Act.

15. *In the backdrop of the reasons stated above, the petition succeeds. Rule is made absolute in terms of prayer clauses (a), (b), (b-1) and (b-5). Consequently, the subject land becomes available to the owners for the purpose of development as otherwise permissible in case of adjacent land owners under the relevant law. The State Government is directed to issue notification under section 127 (2) of the MRTP Act within a period of three months from the date of receipt of this order.*

16. It was held by this Court that once the reservation had lapsed under Section 127, the reinstatement of such reservation by a revised development plan was of no consequence.

17. In *Vasant Mahadev Patil (dead) and Ors.* (supra), the Hon'ble Supreme Court dealt with a case, which we find to be quite similar to the one before us. The facts are set out in paragraph no.3 (sub-paragraph nos.3.1 to 3.12), which read as under :

3. *The facts leading to the present appeal in a nutshell are as under :*

3.1. *The dispute is with respect to the land bearing RS No. 138, admeasuring 3 hectares and 65 ares, situated at E ward, Near New Palace, Kolhapur owned by the original writ petitioners. The development plan for the City of Kolhapur was sanctioned on 18-12-1999. Different portions of the land in question were reserved in the sanctioned development plan for various public purposes, namely, parking, garden, extension of sewage treatment plant, etc. That as the land in*

question was not acquired and/or used for the public purposes for which the same was reserved under the sanctioned development plan, the original writ petitioner landowners served a notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as "the MRTP Act") on 2-1-2012.

3.2. By Resolution dated 18-2-2012, the General Body of the Municipal Corporation resolved to acquire the said property and accordingly on 17-4-2012, a proposal was submitted by the Municipal Corporation to the State Government for compulsory acquisition of the subject property. The District Collector passed an order dated 7-7-2012/9-7-2012 directing that the proposal for acquisition be transferred to the Special Land Acquisition Officer (11), Kolhapur for necessary action. By the said order, the Corporation was directed to deposit 25% of the amount before publication of the notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as "the 1894 Act"), 25% of estimated compensation amount before the publication of a declaration under Section 6 of the 1894 Act and remaining 50% of the estimated compensation amount before the declaration of award under Section 11 of the 1894 Act.

3.3. That on enactment of the 2013 Act, the Land Acquisition Act, 1894 came to be repealed. Therefore, the land in question was subjected to the provisions of the 2013 Act. The Special Land Acquisition Officer directed the Corporation to deposit the amount of Rs 77,65,12,000 towards compensation vide its letter dated 6-10-2015 in order to issue necessary orders as per Section 19 of the 2013 Act. It appears that the Corporation was not in a financial position to pay such a huge compensation amount and so by letter dated 17-3-2016 requested the original writ petitioner landowners to accept the transferable development rights ("TDR") in lieu of

compensation amount as per the Development Control Rules of the Corporation. The original writ petitioners also at the relevant time accepted the said proposal and submitted an application dated 12-5-2017 for grant of TDR. In the meantime, the Special Land Acquisition Officer by its letter dated 22-9-2016 informed the Municipal Corporation to deposit 30% of the total amount of compensation and also informed that the land under reservation fell within the flood affected area due to its proximity to "Jayanti Nala" and considering the valuation of the said area as per the market value of 2016-17 (ASR), the amount of compensation was reduced from Rs 77,65,12,000 to Rs 43,41,29,400.

3.4. It appears that there was some correspondence between the original writ petitioners and the Corporation with respect to the TDR proposal. According to the Corporation, the grant of TDR was always subject to the provisions of the Development Control Rules and further subject to satisfying the conditions mentioned in the said Rules. According to the Municipal Corporation as per the Development Control Rules, any owner before the grant of TDR will have to surrender the land under reservation by carrying out necessary developments according to prevailing bye-laws at his own cost and free of encumbrances.

3.5. According to the Corporation, the reserved area was coming within high flood line and every year for a period of fifteen days to one month, the said area gets flooded during rainy season. According to the Corporation, the reserved land/area is flood affected and a rivulet named "Jayanti Nala" passes through the said area under reservation. Therefore, as per the Corporation, before the TDR proposal could be considered, it was necessary to carry out the required development work upon the said reserved land for making it suitable for the public

purpose as per the reservation, to be carried out by the original writ petitioner landowners. According to the Corporation, if the said developments are not done, the land under reservation will not be able to be utilised for the purpose for which it is reserved. There were various correspondences between the parties.

3.6. However, thereafter the writ petitioners did not agree to avail of the TDR and the original writ petitioner landowners filed the present writ petition before the High Court and prayed for the following reliefs :

(a) Rule be issued and records and proceedings be called for;

(b) That this Hon'ble Court may be pleased to issue writ of mandamus and/or any other appropriate writ, order or direction in the nature of writ of mandamus thereby directing Respondents 1 and 2 to forthwith publish a final notification under sub-sections (2) and (4) of Section 126 of the MRTP Act read with Section 19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act; 2013;

(c) That this Hon'ble Court may be pleased to issue writ of mandamus and/or any other appropriate writ, order or direction in the nature of writ of mandamus thereby directing Respondent 3 Corporation to forthwith deposit the amount of compensation i.e. Rs 77,64,12,000 with Respondents 2 and 7 and further Respondents 2 and 7 may be directed to forthwith release the said amount of compensation to the petitioners;

(d) Such further and other order be made as this Hon'ble Court may deem fit and proper in the interest of justice and in the facts and circumstances of the case.

3.7. *The said petition was vehemently opposed by the Municipal Corporation. An affidavit-in-reply opposing the writ petition was filed on behalf of the original Respondent 6 Municipal Corporation and others. It was vehemently submitted that the reservation has lapsed in view of Section 127 of the MRTTP Act. It was also submitted that it is not possible for the Corporation to acquire the land on payment of huge sum of Rs 43,41,29,400. It was submitted that it was beyond the financial capacity of the Corporation to pay such a huge compensation and it was beyond their budgetary provision and had grave financial implication. It was also pointed out that even the TDR proposal had not been materialised as the original writ petitioners were not agreeable to fulfil their obligations for grant of TDR as per the Development Control Rules. It was also specifically pointed out that unless there is development carried out at the cost of the original writ petitioner landowners, it is not possible for the Corporation to use the land for the purpose for which it is reserved.*

3.8. *It was specifically pointed out that the land in question is a wetland and that the area is flood affected and a rivulet named "Jayanti Nala" passes through the said area under reservation. It was also specifically pointed out that the reserved area is coming within the high flood line and every year for a period of fifteen days to one month the said area gets flooded during the rainy season. Therefore, it was pointed out that it was necessary to carry out the required development work upon the said reserved area for making it suitable for the purposes as per reservation. It was also pointed out that if the said developments are not done, the land under reservation shall not be able to be utilised for the purposes it is reserved.*

3.9. *Before the High Court, the original writ petitioners tendered affidavits dated 1-8-2018 and*

7-8-2018 recording that they do not wish to avail of TDR (as observed by the High Court in para 5). Thereafter by the impugned judgment and order, the High Court has disposed of the writ petition and issued the following directions in exercise of powers under Article 226 of the Constitution of India: (Vasant Mahadev Patil case, SCC OnLine Bom para 8)

8.... (f) We direct the Special Land Acquisition Officer (11), Kolhapur to communicate to the third respondent Municipal Corporation the amount which is required to be deposited by the said Municipal Corporation as a condition precedent for issuing a declaration under Section 19 of the said Act of 2013. The communication demanding the amount shall be issued by the Special Land Acquisition Officer within one month from the date on which this judgment and order is uploaded;

(ii) We may record here that there is no dispute about the reservation of the subject land in the sanctioned development plan and therefore, in view of the proviso to Section 125 of the MRTP Act, the acquisition under the said Act of 2013 shall commence from the stage of declaration under Section 19 thereof;

(iii) Within a period of two months from the demand for payment made by the Special Land Acquisition Officer as aforesaid, the third respondent shall deposit the requisite amount with the Collector/Special Land Acquisition Officer;

(iv) Within a period of one month from the date of deposit of the requisite amount by the third respondent, a declaration under Section 19 of the said Act of 2013 shall be issued/published in accordance with law;

(v) The acquisition proceedings shall be completed and compensation shall be paid as expeditiously as possible in accordance with law and in any case within a period of one year from the date on which the declaration under Section 19 of the said Act of 2013 is published;

(vi) Writ petition is disposed of with the above directions;

(vii) For reporting compliance with the above directions by the third respondent the petition shall be listed under the caption of directions on 26-11-2018."

3.10. While issuing the aforesaid directions, the High Court has observed that as there was already a resolution passed by the General Body of the Municipal Corporation to acquire the subject lands by taking recourse to law of compulsory acquisition, therefore, there is no option for the Municipal Corporation but to acquire the said land by taking recourse to the 2013 Act.

3.11. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 13-8-2018 passed by the High Court of Judicature at Bombay in Vasant Mahadev Patil v. State of Maharashtra¹, the Kolhapur Municipal Corporation and others have preferred the present Civil Appeal No.510 of 2022.

3.12. It appears that after the impugned judgment and order dated 13-8-2018¹ passed by the High Court and after the above directions were issued, the appellants Kolhapur Municipal Corporation and others filed one Civil Application No. 2461 of 2018 in Writ Petition No. 5310 of 2018 for modification of the judgment and order dated 13-8-2018¹ and prayed for the direction to the original writ petitioners to accept the TDR in

lieu of monetary compensation. It was also further prayed for directing that in the event of the failure of the Corporation to deposit the amount, the consequences under the MRTP Act, 1966 and the 2013 Act should follow. Both the aforesaid prayers were rejected by the High Court vide order dated 10-12-20182 by observing that the original writ petitioners are not consenting to accept the TDR in lieu of monetary compensation. The order dated 10-12-2018 passed in Kolhapur Municipal Corpn. v. State of Maharashtra is the subject-matter of present Civil Appeal No. 511 of 2022.

18. Though the learned Advocate Mr. Aradhye vehemently canvassed his proposition on the basis of the record, he could not dispute that the purchase notice 'X' was served upon the Municipal Council, inasmuch as, prior to the said notice, the Council had consistently taken the stand that it did not desire the land anymore. In the affidavit in reply dated 30th March 2026, filed on behalf of the Council through Mr. Nikhil Madhukar Kanchan, Assistant Town Planner, Saswad Municipal Council, the purchase notice 'X' is neither disputed nor contradicted. In fact, the Council remained unresponsive to the notice 'X' and, therefore, the doctrine '*acceptance sub silentio*' would squarely apply in the present case.

19. Be that as it may, the Hon'ble Supreme Court in *Vasant Mahadev Patil (dead) and Ors.* (supra) concluded, in paragraph

nos.36 to 40, that in such circumstances, once the reservation on the land was deemed to have lapsed under Section 127(1), no Writ of Mandamus could have been issued by the High Court to acquire the land and thereafter pay compensation to the landowners, since, upon the lapsing of the reservation, the land in question is free from reservation and the landowners are entitled to use it as if there was no reservation. In paragraph no.37, the Hon'ble Supreme Court recorded that "*Once by operation of law, the reservation is deemed to have lapsed, it is lapsed for all purposes and for all times to come*".

20. In the light of the undisputed facts before us, it is clear that the purchase notice under Section 127 was received by the Council and no steps were taken towards acquisition. The reservation had lapsed by effect of law on 19th December, 2006. The second revised development plan was sanctioned and published on 23rd June, 2017, indicating the same reservation for '*Primary School and Playground*', after 19th December, 2006, i.e., upon the lapse of ten years and six months, by which time the reservation had already deemed to have lapsed. Since this notice was rejected by the Council, the Petitioners again issued a purchase notice under Section 49 on 18th August, 2022. The Council submitted its report

dated 8th December, 2022 to Respondent No.3, recommending not to confirm the purchase notice. The Council then forwarded a proposal to the District Collector for acquisition of the Suit property, on 24th January, 2023. Respondent No.3, by order dated 9th February, 2023, confirmed the purchase notice dated 18th August, 2022. On 6th March, 2023, Respondent No.3 addressed a communication to the Council informing it of the confirmation of the purchase notice and calling upon it to submit a proposal for acquisition within the prescribed period of one year under Section 49(7) of the MRTP Act. However, between 6th March, 2023 and the filing of this Petition on 3rd May, 2025, and even as of today, the Council has not taken any steps for acquisition of the land under reservation. The reservation has, therefore, lapsed even in such circumstances.

21. In view of the above, **this Petition is allowed** in terms of prayer clauses (b), (c) and (d), which read as under :

(b) To hold and declare that the reservation of Primary School and Play Ground on the suit property i.e. Survey No. 4 Hissa No. 11 admeasuring 4200 Sq Mtrs situated within the limits of the Saswad Municipal Council, Saswad, Tal:-Purandar, District:-Pune is lapsed and the suit property is thus available to the Petitioners for development;

(c) To hold and declare that the suit property i.e. Survey No. 4 Hissa No. 11 admeasuring 4200 Sq

Mtrs situated within the limits of the Saswad Municipal Council, Saswad, Tal:-Purandar, District:-Pune is not vested in the Respondent Saswad Municipal Council;

(d) To permit the Petitioners to develop the property in question in accordance with law.

22. We direct the Council to make a formal communication to the appropriate authority within 15 days from today, about the lapsing of the reservation, and within 30 days thereafter, the competent authority/State Government would issue a notification of the lapsing of the reservation under Section 127(2) of the MRTP Act.

23. **Rule is made absolute in the above terms.**

(ABHAY J. MANTRI, J.)

(RAVINDRA V. GHUGE, J.)