



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.4208 OF 2024

PETITIONER : **Prashant Shankarao Kale,**
Age about – 74 years, Occ : Business, R/o.
Plot No.3, LAD College, Shivajinagar,
Nagpur.

..VERSUS..

RESPONDENTS : 1 **The State of Maharashtra** through the
Secretary Urban Development Department,
Mantralaya, Mumbai.

2 **The Nagpur Municipal Corporation City of**
Nagpur, through its Commissioner, Nagpur
Municipal Corporation, Civil Lines, Nagpur.

3 **The Nagpur Improvement Trust**, through its
Chairman, Opp. NIT Swimming Pool, North
Ambazari Road, Nagpur.

Shri. Girish K. Mundhada, Advocate for Petitioner.
Ms. Kalyani P. Marpakwar, AGP for Respondent No.1/State.
Shri. Ashish S. Mehadia, Advocate for Respondent No.2.
Shri. S. M. Puranik, Advocate for Respondent No.3.

CORAM : **ANIL S. KILOR AND RAJ D. WAKODE, JJ.**

DATE : **30th MARCH, 2026.**

ORAL JUDGMENT : (PER : RAJ D. WAKODE, J.)

1. Heard Shri. G. K. Mundhada, learned counsel for petitioner, Ms. K. P. Marpakwar, learned Assistant Government Pleader for respondent No.1/State, Shri. A. S. Mehadia, learned counsel for respondent No.2 – Nagpur Municipal Corporation City of Nagpur and Shri. S. M. Puranik, learned counsel for respondent No.3 – Nagpur Improvement Trust.

2. **Rule.** Rule made returnable forthwith. The present writ petition is heard finally with the consent of the learned counsels appearing for the respective parties.

3. The petitioner has approached this Court seeking a declaration that the land owned by him, which was reserved in the Revised Final Development Plan of Nagpur City, stands released because of lapsing of the Reservation under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as, “the aforesaid Act” for the sake of brevity).

4. Brief facts, leading to filing of the present writ petition, are as follow :

4.1. The petitioner is the owner and a person interested in the land bearing Khasra No.164/12 of Mouza Dabha, Taluka Nagpur Urban, District Nagpur, area admeasuring 1.17 H.R. (hereinafter referred to as, “the aforesaid land”, for the sake of brevity). The Revised Final Development Plan of Nagpur City under Section 31(6) of the aforesaid Act was sanctioned by the State Government of Maharashtra and came into force *vide* Notification No.TPS/2696/2643/CR-300(a)/97/UD-9 dated 07.01.2000. In the said Revised Final Development Plan, the aforesaid land has been reserved for the purposes of a playground *vide* Reservation

No.MNW 48, area admeasuring 1200 sq. mtrs., a Primary School *vide* Reservation No.MNW 50, area admeasuring 900 sq. mtrs., and a Library *vide* Reservation No.MNW 51, area admeasuring 36,200 sq. mtrs., thereby affecting a total area of 38,300 sq. mtrs. As per the Table of Reservation Details in the Revised Final Development Plan, respondent No.3 is the Appropriate Authority for whom the said reservation is reserved on the aforesaid land.

4.2. On 27.02.2002, *vide* Notification No.TPS-2401/855/CR-76/UD-9 (hereinafter referred to as 'GR-2002'), respondent No.1 withdrew the powers of respondent No.3 to function as the Planning Authority for the entire area of Nagpur City, except for seven schemes specified in the said GR-2002, under its jurisdiction and transferred such powers to respondent No.2. The said notification was published in the Official Gazette of the State of Maharashtra on 11.03.2002, by order of the Governor of Maharashtra. As the aforesaid land is forming part of Green Belt Control Scheme and in the GR-2002 Green Belt Control Scheme is enlisted under the excluded seven schemes, respondent No.3 continued to be the Appropriate Authority responsible for the acquisition and development of the said reservation under the Revised Final Development Plan.

4.3. On 19.05.2022, the petitioner personally served a notice under Section 127 of the aforesaid Act at the office of respondent No.3, alongwith a copy of the sale deed showing his title and interest in the aforesaid land. The documents showing title and interest, as well as the details of the reservation, were duly submitted along with the said notice. By the said notice, respondent No.3 was called upon to acquire the said land within the statutory period. On 23.12.2022, the petitioner, in continuation of the previous notice dated 24.05.2022, issued a second notice under Section 127 of the aforesaid Act through his counsel. The said notice was served alongwith documents such as 7/12 extract, a copy of the earlier notice dated 24.05.2022, measurement sheet, mutation entry, part plan of the Development Plan, and the relevant extract of the Schedule of Reservation details. The said notice was served upon all the respondents on 23.12.2022. By the said notice, the respondents were called upon to acquire the aforesaid land within the statutory period of 24 months from the date of service of the said notice.

4.4. After receipt of the second notice under Section 127 of the aforesaid Act, respondent No.3, *vide* letter No.9919 dated 18.04.2023, offered compensation in the form of Transferable Development Rights (TDR) for the acquisition of the aforesaid land for the purpose of the allocated reservation. Petitioner was in need

of money, hence on 07.11.2023, petitioner through his counsel issued a reply notice to respondent No.3 informing that the petitioner is not interested in the TDR compensation and requested to respondent No.2 to grant the monetary compensation as per the prevailing market value for the land affected by the above stated reservation. Thus, the statutory period of 24 months as contemplated under Section 127 of the aforesaid Act expired on 23.12.2024 and accordingly, the petitioner prays for declaration of the lapsing of reservation of the aforesaid land.

5. In pursuance to the notice issued by this Court, respondent No.3 - Appropriate Authority has appeared and filed its reply on 13.05.2025. A perusal of the reply reveals that the respondent No.3 has admitted the title of the petitioner so also the receipt of the purchase notice issued under Section 127 of the aforesaid Act, on 23.12.2022. In the reply, the respondent No.3 contended that after the receipt of the aforesaid purchase notice on 23.12.2022, the Chairman, Nagpur Improvement Trust, *vide* letter Nos.Chairman/Planning/3385 and Chairman/Planning/3383, both dated 15.03.2024, had forwarded the acquisition proposal in respect of the land in dispute to the Collector, Nagpur, and the State Government.

6. Further, Shri. S. M. Puranik, learned counsel for respondent No.3 - Nagpur Improvement Trust, submitted that on 18.04.2023, the respondent No.3 had offered compensation in the form of TDR for the acquisition of the aforesaid land for fulfilling the purpose of reservation, which was denied by the petitioner. In view of the above, Shri. Puranik, learned counsel, submits that the respondent No.3 had initiated the appropriate steps for acquisition of the aforesaid land and hence, the present writ petition deserves to be dismissed.

7. So far as the first ground raised by the learned counsel for respondent No.3, regarding submission of a proposal to the Collector, Nagpur for acquisition of the aforesaid land, is concerned, the aforesaid action on the part of respondent No.3 does not amount to 'steps' as defined under Section 127 of the aforesaid Act towards acquisition of the land. Section 127(1) of the aforesaid Act specifically mentions that either the land has to be acquired or at least a declaration under Sub-section (2) or (4) of Section 126 has to be published in the Official Gazette within the stipulated period of 24 months months from the date of service of purchase notice under Section 127(1) of the aforesaid Act. These are the only steps which prevent the reservation from lapsing. In the present case, admittedly, neither the land is acquired nor such declaration, under Sub-sections

(2) or (4) of Section 126 of the aforesaid Act, is published in the Official Gazette and accordingly, the respondent No.3 has failed to take the steps as contemplated under Section 127(1) of the aforesaid Act for acquisition of the aforesaid land and accordingly, such defence raised by respondent No.3 is rejected.

8. So far as the other ground regarding the offer of TDR and its denial is concerned, the aforesaid issue is no more *res integra* in view of the decision of the Full Bench of this Court in the case of *Shri Vinayak Builders and Developers v. State of Maharashtra and Others*, reported in 2022 (4) Mh.L.J. 3739. In the aforesaid judgment, the Full Bench of this Court has held that only when an agreement is entered into between the parties with regard to acquisition of land, by granting of TDR/FSI Rights to the landowner, the same would constitute 'steps' towards acquisition. In the absence of such an agreement/concluded contract between the parties, as in the given case, such an offer only at the behest of the Appropriate Authority will not constitute a step towards acquisition of the land.

9. We are in complete agreement with the view of the Full Bench of this Court. In our considered opinion, insistence by the authorities to accept TDR/FSI in lieu of monetary compensation

cannot be construed as 'steps' towards acquisition of land. The determinative factor in such a situation would be the existence of an express agreement between the parties providing for acquisition of land by grant of TDR/FSI, which would constitute the yardstick for acquisition of such land.

10. In the present case, admittedly, there is no agreement between the parties and thus, the absence of such an agreement, as warranted by law, would as a sequel result in the lapsing of reservation of the aforesaid land. Accordingly, the second defence raised by respondent No.3 - the Appropriate Authority stands rejected.

11. In light of the above discussion and the well-settled legal position, we find that the reservation in respect of the aforesaid land has lapsed under Section 127(2) of the aforesaid Act upon expiry of 24 months from 24.05.2022. Hence, the petitioner is entitled to the relief of a direction permitting him to develop the land, as prayed for, which was subject to reservation. In that view of the matter, we proceed to pass the following order :

ORDER

- i) The writ petition is allowed.
- ii) It is declared that the reservation for a playground

vide Reservation No.MNW 48, area admeasuring 1200 sq. mtrs., a Primary School *vide* Reservation No.MNW 50, area admeasuring 900 sq. mtrs., and a Library *vide* Reservation No.MNW 51, area admeasuring 36,200 sq. mtrs., thereby affecting a total area admeasuring of 38,300 sq. mtrs., in Revised Final Development Plan, affecting the land bearing Khasara No.164/12 of Mouza Dabha, Taluka Nagpur Urban, District Nagpur, area admeasuring 1.17 H.R., has lapsed under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 and the petitioners are free to develop the aforesaid land in the manner permissible to the adjacent land as per Development Plan.

iii) The respondents shall within a period of eight weeks from the receipt of the copy of this judgment, publish in the Official Gazette the notification of lapsing of reservation under Section 127 sub-Section (2) of the aforesaid Act and declare that the reservation of a playground *vide* Reservation No.MNW 48, area admeasuring 1200 sq. mtrs., a Primary School *vide* Reservation No.MNW 50, area admeasuring 900 sq. mtrs., and a Library *vide* Reservation No.MNW 51, area

admeasuring 36,200 sq. mtrs., thereby affecting a total area admeasuring of 38,300 sq. mtrs., in Revised Final Development Plan, affecting the land bearing Khasara No.164/12 of Mouza Dabha, Taluka Nagpur Urban, District Nagpur, area admeasuring 1.17 H.R., has lapsed.

12. Rule is made absolute in the aforesaid terms. No order as to costs.

(RAJ D. WAKODE, J.)

(ANIL S. KILOR, J.)