



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

WRIT PETITION NO. 4946 OF 2024

PETITIONER : Shri. Harishchandra S/o. Harikishan
Agrawal, A/a 63 years, Occ. Business,
R/o. 56, Harikishan Agrawal Marg,
Gokulpeth, Nagpur-440010.

//VERSUS//

RESPONDENTS : 1. The State of Maharashtra, through the
Secretary, Urban Development
Department, Mantralaya, Mumbai-32.
2. The Director of Town Planning, State
of Maharashtra, 4th Floor, Madam Kama
Road, Rajgur Chowk, Mumbai –
400032.
3. Nagpur Metro Region Development
Authority, through its Commissioner,
Sadar, Nagpur.

Mr. G.K. Mundhada, Advocate for the Petitioner.
Mr. I.J. Damle, AGP for Respondent Nos.1 & 2/State.
Mr. K.P. Mahalle, 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.)

Heard Mr. G.K. Mundhada, learned counsel for the
petitioner, Mr. I.J. Damle, learned AGP for respondent

Nos.1 and 2/State, and Mr. K.P. Mahalle, learned counsel for respondent No.3.

2. **Rule.** Rule made returnable forthwith. Heard finally with the consent of the parties.

3. The petitioner has approached this Court seeking a declaration that the reservation of the land owned by him stands lapsed under Section 49(7) of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as “the aforesaid Act” for the sake of brevity).

4. The brief facts leading to the filing of the present writ petition are as follows:

The petitioner is the sole and absolute owner of agricultural land admeasuring 1.01 Hectares (2.50 Acres), situated towards the eastern side of agricultural lands bearing Kh. Nos. 95 and 97 (old), renumbered as 95-2 (new), forming part of Mouza Kapsi (Buz.), P.H. No. 20, held under Bhuwarg Class-I rights, along with all appurtenant rights, situated within the Gram Panchayat limits of Village Kapsi (Buz.), Tahsil Kamptee, District Nagpur (hereinafter referred to as “the aforesaid land”).

5. A Draft Development Plan for the Nagpur Metropolitan Area was published vide Notice No. NIT/1410 dated 20.02.2015 under Section 26 of the aforesaid Act. As per the said plan, out of the petitioner's total land admeasuring 1.01 Hectare, a substantial portion admeasuring 0.77 Hectare (Kh. No. 95-2) was reserved for 'Parks and Gardens' (East A-PK004) and 'Educational Complex (Primary School)' (East A-EC01008), while the remaining portion was designated for residential use under category R2.

6. Since the aforesaid reserved land was not acquired within a reasonable time, the petitioner issued a purchase notice dated 21.03.2022 under Section 49(1) of the aforesaid Act. The aforesaid notice is at record page No.43 (Annexure-B). The State Government, after granting an opportunity of hearing to the petitioner, confirmed the said notice on 23.09.2022 under Section 49(4) of the said Act, which is at record page No.53 (Annexure-C).

7. Sub-section 7 of the aforesaid Act provides that if within one year from the date of confirmation of the notice, the Appropriate Authority fails to make an application to acquire the land in respect of which the purchase notice has been confirmed as required under Section 126, the reservation, designation, allotment, indication or restriction on development of the land shall be deemed to have lapsed;

and shall become available to the owner for the purpose of development otherwise permissible in the case of adjacent land, under the relevant plan.

8. In the present case, the State Government confirmed the purchase notice under Section 49(4) of the aforesaid Act on 23.09.2022. Consequently, the Appropriate Authority was under an obligation, in terms of Section 49(7) of the aforesaid Act, to make an application for acquisition of the land in respect of which the purchase notice had been confirmed. The petitioner has specifically pleaded that the said obligation was not fulfilled by the Appropriate Authority and, therefore, the reservation of the aforesaid land stands lapsed under Section 49(7) of the aforesaid Act. Hence, the present writ petition.

9. Upon notice being issued by this Court, respondent No. 3 – Appropriate Authority appeared and filed its reply on 21.08.2025. In its reply, respondent No. 3 has raised a specific contention that the Appropriate Authority submitted a proposal to the Collector, Nagpur, vide communication dated 20.09.2023, for acquisition of the aforesaid land in accordance with Section 49(7) of the aforesaid Act. Respondent No. 3 has further contended that it also submitted a proposal to respondent No. 1 seeking sanction of funds required for acquisition of the aforesaid land. It is thus contended that the application was made

prior to the cut-off date, i.e., 22.09.2023, and since the proposal was submitted on 20.09.2023, it was well within the time frame prescribed under Section 49(7) of the aforesaid Act. On this basis, respondent No. 3 has prayed for dismissal of the present writ petition.

10. Upon a specific query made by this Court to the learned AGP regarding the exact date on which the proposal was received by the Collector, Nagpur, an affidavit came to be filed on behalf of respondent Nos. 1 and 2 on 16.02.2026. A perusal of the said affidavit reveals that, as per the official record, the inward stamp bears the date 26.09.2023. Thus, although the proposal was prepared by respondent No. 3 on 20.09.2023, it was actually submitted in the office of the Collector, Nagpur on 26.09.2023, i.e., after the cut-off date of 22.09.2023.

11. The Hon'ble Supreme Court, in the case of ***Chhabildas vs. State of Maharashtra and Ors. [(2018) 2 SCC 784]***, upon consideration of various earlier judgments, has laid down the legal position regarding the timeline for issuance of a purchase notice and the consequential de-reservation under the provisions of the aforesaid Act, which reads thus:

“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 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).

12. Thus, the Hon'ble Supreme Court has specifically held that in all Section 49 cases where a purchase notice has been served and is 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.

13. In the present case, the purchase notice issued by the petitioner on 21.03.2022 was confirmed by the State Government on 23.09.2022. Consequently, the cut-off date, as contemplated under

Section 49(7) of the aforesaid Act, was 22.09.2023. Although respondent No. 3 prepared the proposal for acquisition on 20.09.2023, the same was actually submitted in the office of the Collector, Nagpur on 26.09.2023, i.e., beyond the cut-off date of 22.09.2023.

14. In light of the above discussion and the settled legal position, we find that the reservation in respect of the aforesaid land has lapsed under Section 49(7) of the aforesaid Act on 22.09.2023. Hence, the petitioner is entitled to the relief of a direction permitting him to develop the aforesaid land in accordance with the permissible use applicable to the adjacent land under the relevant Development Plan. In that view of the matter, we proceed to pass the following order:

ORDER

- (i) The writ petition is **allowed**.
- (ii) It is hereby declared that the Reservation No. East A-PK 004- "Park & Gardens" and Reservation No. East A-EC 01014- "Educational Complex" of land of the petitioner of Khasra No. 95-2, admeasuring 0.77 Hectares situated at Mouza Kapsi (Bu.) Tahsil Kamptee, District – Nagpur, has lapsed under Section 49(7) of the aforesaid Act and that the petitioner is free to develop the land owned by him in the manner permissible to adjacent land as per the Development Plan.

(iii) The concerned respondent shall, within a period of eight weeks from the date of receipt of the copy of this judgment, publish in the Official Gazette the notification of lapsing of reservation under Section 49(7) of the aforesaid Act and declare that Reservation No. East A-PK 004- "Park & Gardens" and Reservation No. East A-EC 01014- "Educational Complex" of land of the petitioner of Khasra No. 95-2, admeasuring 0.77 Hectares situated at Mouza Kapsi (Bu.) Tahsil Kamptee, District – Nagpur, has lapsed.

15. Rule is made absolute in the above terms. No order as to costs.

(RAJ D. WAKODE, J.)

(ANIL S. KILOR, J.)

Vijaykumar