



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

WRIT PETITION NO. 6029 OF 2024

PETITIONERS

- : 1. Mohammad Rizwan Mohammad Usman, Age-45 Years, Occu: Business, R/o. Bagwan Pura, Near Municipal Office, Achalpur, Tq. Achalpur, District Amravati.
2. Mohammad Imran Mohammad Usman, Age-43 Years, Occu: Business, R/o. Bagwan Pura, Near Municipal Office, Achalpur, Tq. Achalpur, District Amravati.
3. Nuzhat Naziya Khan, Age-42 Years, Occu: House Wife, R/o. Bazar Fail, Near Maruti Temple, Shegaon, Tq. Shegaon, District Buldhana.
4. Zulekha Jabin Mohammad Irfan, Age-41 Years, Occu: Service, R/o. Qilla, Near Jama Masjid, Achalpur, Tq. Achalpur, District Amravati.
5. Mohammad Akbar Mohammad Usman, Age-39 Years, Occu: Business, R/o. Bagwan Pura, Near Municipal Office, Achalpur, Tq. Achalpur, District Amravati.

//VERSUS//

RESPONDENTS

- : 1. State of Maharashtra, through its Secretary, Department of Urban Welfare, Mantralaya, Mumbai-32.
2. Municipal Council Achalpur, Dist. Amravati through its Chief Officer.
3. The Collector, Amravati.

Mr. Raheel Mirza, Advocate for the Petitioners.
Mr. S.M. Ukey, Addl. G.P. for Respondent Nos.2 & 3/State.
Mr. S.A. Kanetkar, 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. Raheel Mirza, learned counsel for the petitioners,
Mr. S.M. Ukey, learned Additional Government Pleader for respondent
Nos.1 and 2/State, and Mr. S.A. Kanetkar, learned counsel for
respondent No.3.

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

3. The petitioners have approached this Court seeking
declaration that the reservation of the land owned by them stands
lapsed 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. The brief facts leading to the filing of the present writ
petition are as follows:

The petitioners are the legal heirs of deceased Mohammad Usman Mohammad Hanif. The father of the petitioners, namely Mohammad Usman Mohammad Hanif, was the owner of land bearing Survey No.283/2, situated at Mouza Khel Tapmali, Tq. Achalpur, District Amravati, admeasuring 0.89 H.R. (hereinafter referred to as “the aforesaid land”).

5. The aforesaid land admeasuring 0.89 H.R., Site No. 69, was earmarked and reserved for “Garden” in the Development Plan of Achalpur Municipal Council dated 15.01.2003, which came into force with effect from 01.03.2003.

6. The aforesaid land having been reserved under the Development Plan, even after the lapse of more than 10 years, was not acquired. Consequently, the owner of the aforesaid land issued a notice under Section 127 of the aforesaid Act on 05.08.2021, calling upon respondent No.2 to acquire the land. The aforesaid notice is at record page No.34 (Annexure-C).

7. In an earlier round of litigation before this Court between the same parties, respondent No.2 – Municipal Council admitted receipt of the said purchase notice on 09.08.2021 and stated that the same would be treated as a valid notice under Section 127 of the aforesaid Act and that further steps would be taken accordingly. The

statement made by the learned counsel for respondent No.2, as well as the affidavit filed on its behalf, were accepted by this Court, and accordingly Writ Petition No.1995/2022 was disposed of vide order dated 21.04.2023. The aforesaid order is at record page No.55 (Annexure-F).

8. Thus, respondent No.2 has admitted receipt of the purchase notice under Section 127 of the aforesaid Act on 09.08.2021. The statutory period of 24 months as prescribed under Section 127(1) of the aforesaid Act has expired without any acquisition or even steps being taken towards such acquisition by the respondents. Hence, the petitioners have approached this Court by way of the present writ petition.

9. Respondent No.2, upon notice of this Court, filed its reply on 28.01.2026. A perusal of the said reply reveals that, despite having earlier accepted before this Court that the purchase notice issued by the petitioners and received on 09.08.2021 was valid and that it would proceed accordingly, respondent No.2 has once again raised the contention that the purchase notice is defective. This time, the contention is that the purchase notice was not accompanied by the necessary documents and, therefore, the purchase notice under Section 127 of the aforesaid Act stands vitiated for non-compliance of the

requisite statutory requirements. Respondent No.2 has placed on record communications dated 07.12.2022, 12.07.2024, and 30.08.2024, calling upon the petitioners to submit certain documents mentioned therein.

10. At the outset, it is pertinent to note that the communications dated 12.07.2024 and 30.08.2024 cannot be relied upon by respondent No.2, as they were issued after 09.08.2023. The purchase notice under Section 127 of the aforesaid Act was served upon respondent No.2 on 09.08.2021, and the statutory period of 24 months expired on 09.08.2023. On the said date, the reservation on the aforesaid land stood lapsed in view of Section 127(1) of the aforesaid Act. Thus, the communications dated 12.07.2024 and 30.08.2024, having been issued after the expiry of the statutory period, are of no consequence and do not assist respondent No.2. So far as the communication dated 07.12.2022 is concerned, a perusal thereof reveals that respondent No.2 called upon the petitioners to submit documents such as the property card, 'K' Prat, and Akhiv Patrika.

11. In our considered opinion, such a defence raised by respondent No.2 is unsustainable in the eyes of law. The aforesaid issue is no more res integra and has been dealt with in a catena of judgments by this Court against the appropriate authority.

12. At the outset, a perusal of Section 127(1) of the aforesaid Act shows that the only document that needs to be accompanied by the landowner alongwith purchase notice is the document showing his title or interest in the said land. Apart from, the above document showing title or interest in the said land, no other document is included under Section 127(1) of the aforesaid Act, and thus, the insistence of respondent No.2 on documents like 'K' Prat and Akhiv Patrika for initiating acquisition proceedings in respect of the aforesaid land owned by the petitioners is unsustainable in the eyes of law and deserves to be rejected.

13. The Division Bench of this Court at the Principal Seat, in the latest judgment dated 17.02.2026, passed in the case of ***Yakub Salebhai Contractor (Deceased) and Others Vs. State of Maharashtra and Others***, in ***Writ Petition No.13965 of 2024***, has held thus :

“16. In the present case, Respondent No. 3 does not dispute the receipt of the purchase notice dated 2nd August 2021, and two years have elapsed on 1st August 2023. Respondent No.3 has failed to take any steps to acquire or develop the land within the prescribed period; as such, the observations made in the afore-cited decision are squarely applicable to the case at hand.

17. The planning authority, Respondent No. 3, has only raised the grievance that a purchase notice was defective in the absence of documents demonstrating title or interest in the land or the notice did not contain a detailed description of the property, nor did it produce the measurement sheet of the land in question to indicate the extent of the land affected by the DP reservation. According to us, the submission of documents showing title or interest in the land, along with the Purchase Notice to the concerned Authority as per section 127(1), is

intended to facilitate clear transfer of title from the owner or the person interested in the land upon payment of the consideration to the claimant within the stipulated period of 24 months.

18. *In our view, after the expiry of the stipulated period of twenty-four months under Section 127 (1) upon service of a purchase notice, if the land is not acquired, or no steps as contemplated under the said Section are commenced for its acquisition, thereupon, the land is deemed to be released from such reservation, allotment or designation; in such circumstances, the concerned Authority cannot raise a defence that the purchase notice was defective, as it was not accompanied by the documents showing title or interest in the said land.*

19. *In other words, the concerned Authority cannot raise a defence of a defective purchase notice for want of a document showing title or interest in the said land, when it has failed to take steps to acquire the land within the stipulated period as contemplated by the provisions of the MRTP Act. Such documents are not required for the release of the property from reservation, allotment, or designation, when the land is not acquired, or no steps are commenced for its acquisition, reservation, or allotment, as provided in the MRTP Act, on account of the lapsing of the reservation.”*

14. In view of the aforesaid judgment of this Court, which reaffirms the long-standing view regarding the documents to be included alongwith a purchase notice, the ground raised by respondent No.3 for opposing the present writ petition is unsustainable in the eyes of law and is accordingly rejected.

15. Respondent No.2 has also raised an objection to the maintainability of the present writ petition on the ground that the petitioners are the legal heirs of the original owner, deceased Mohammad Usman Mohammad Hanif, and the original owner had issued purchase notice and not by the petitioners.

16. A perusal of the record reveals that, after expiry of the statutory period of 24 months on 09.08.2023, the original owner of the aforesaid land, Mr. Mohammad Usman Mohammad Hanif, submitted a reminder to respondent No.2 on 29.08.2023, which is at record page No.57 (Annexure-G). The respondents did not act upon the said representation, and subsequently, the original owner expired on 09.07.2024. The petitioners, being the legal heirs of the deceased Mr. Mohammad Usman Mohammad Hanif, thereafter submitted a representation to respondent No.2 on 12.08.2024. The intention behind the said representation was to inform that the petitioners, having succeeded to the aforesaid land, are entitled to assert their rights and to point out that the reservation on the said land had already lapsed. Accordingly, they requested respondent No.2 to take necessary action. The said representation dated 12.08.2024 is at record page No.61 (Annexure-I).

17. Respondent No.2, taking advantage of the aforesaid representation dated 12.08.2024, has contended that the same amounts to a fresh notice under Section 127 of the aforesaid Act issued by the petitioners, and therefore, the present petition seeking declaration of lapse of reservation is premature, as the statutory period of 24 months has not yet expired from the date of the said representation.

18. In our considered view, the objection raised by respondent No.2 is wholly unsustainable in law. The issue is no longer *res integra* and stands concluded by the judgment of this Court in the case of ***Satish s/o Soma Bhole & Others vs. State of Maharashtra & Others*** [2010 (6) ALL MR 65]. In the said judgment this Court has held that the notice issued by the predecessor-in-title would not dis-entitle the purchaser of the property to seek the benefit of the provisions of Section 127 of the MRTP Act. It is held in the judgment that once the notice has been issued under Section 127 of the MRTP Act, the time would not stop running by the sale of the property by the owner.

19. Thus, merely because the present petitioners themselves did not issue a fresh notice under Section 127, the same cannot be a ground to deny them the benefit of lapse of reservation under the aforesaid Act. Accordingly, the second defence raised by respondent No.2 also loses its force and stands rejected.

20. 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 09.08.2021. Hence, the petitioners are entitled to the relief of a direction permitting them 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 hereby declared that the reservation of Garden as per the Development Plan/Regional Plan of Amravati Region dated 15.01.2003 (which came into force w.e.f. 01.03.2003) in respect of the land owned by the petitioners i.e. Land Survey No.283/2 admeasuring 0.89 HR, Mouza Khel Tapmali, Tahsil Achalpur, District Amravati, has lapsed under Section 127 of the aforesaid Act and the petitioners are free to develop the land owned by them 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 127(2) of the aforesaid Act and declare that the reservation of Garden as per the Development Plan/Regional Plan of Amravati Region dated 15.01.2003 (which came into force w.e.f. 01.03.2003) in respect of the land owned by the petitioners i.e. Land Survey No.283/2 admeasuring 0.89 HR, Mouza Khel Tapmali, Tahsil Achalpur, District Amravati, has lapsed.

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

(RAJ D. WAKODE, J.)

(ANIL S. KILOR, J.)

Vijaykumar