



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

WRIT PETITION NO.6396 OF 2024

PETITIONERS : 1 **Vinod Vitthalrao Samarth,**
Age about - 71 years, Occupation : Business.

2 **Mukesh Vitthalrao Samarth,**
Age about - 65 years, Occupation : Advocacy.

All R/o. 28, New Ramdas Peth, 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. G. K. Mundhada, Advocate for Petitioners.
Shri. H. D. Marathe, AGP for Respondent No.1/State.
Shri. A. S. Mehadia, Advocate for Respondent No.2.
Shri. G. A. Kunte, 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 the
petitioners, Shri. H. D. Marathe, learned Assistant Government
Pleader for respondent No.1/State, Shri. A. S. Mehadia, learned
counsel for respondent No.2 and Shri. G. A. Kunte, learned counsel
for respondent No.3.

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 petitioners have approached this Court seeking a declaration that the reservation of land owned by the petitioners in the Revised Final Development Plan of Nagpur City for playground 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. Brief facts, leading to filing of the present writ petition, are as follow :

4.1. The petitioners are the joint owners and persons interested in the land bearing Plot No.W-5, out of the layout of Mahadeo Nagar Grihnirman Co-operative Housing Society, Nagpur, admeasuring 4800 sq. ft., being a portion of the entire land bearing Khasra No.21/3 of Mouza Kachimet, Mouza No.189, Thak No.36, P.S.K. No.7, Sheet No.168C/12, City Survey No.21, Ward No.74, Taluka Nagpur, District Nagpur (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/2696/2643CR-300(a)/97/UD-9, dated 07.01.2000. In the said Revised Final Development Plan, the aforesaid land has been reserved for the purpose of a playground *vide* Reservation No.MW-4 by the respondents. As per the Table of Reservation Details of Revised Final Development Plan, respondent No.3 is the Appropriate Authority for whom the aforesaid land is reserved for a playground *vide* Reservation No.MW-4.

4.2. As the aforesaid land was under reservation in the Revised Final Development Plan and the petitioners were not able to develop the same, the petitioners, through their counsel, issued a notice, under Section 127 of the aforesaid Act, to the respondents on 16.09.2022. By the said notice, the respondents were called upon to take appropriate steps for acquisition of the aforesaid land within the statutory period of 24 months from the date of service of the notice. The notice, under Section 127 of the aforesaid Act, was served alongwith the documents showing interest of the petitioners, such as Sale Deed No.3880P dated 30.06.1982, residential layout plan, tax payment receipt, part plan map of Development Plan and a copy of the relevant part of the schedule of notification as per the

Development Plan. The aforesaid purchase notice dated 16.09.2022 is at record page No.27 (Annexure – B). A perusal of the aforesaid notice reveals that it was duly served upon the respondents on 16.09.2022 and it was accompanied with the documents showing the title and interest of the petitioners in the aforesaid land.

4.3. After receipt of notice under Section 127 of the aforesaid Act, respondent No.3 on 21.10.2022, *vide* letter No.2216, demanded the documents such as complete 7/12 extract of Khasra No.21 and measurement sheet of Khasra No.21 with demarcation of the aforesaid Plot No.W-5.

4.4. In response to the aforesaid letter of respondent No.3, the counsel for the petitioners issued a reply stating that, in view of the judgment of the Hon'ble Bombay High Court in the case of *Pratap Tularam Ghogale vs. State of Maharashtra and others, 2013 LawSuit (Bom.) 1328*, there is no requirement under Section 127(1) of the aforesaid Act to produce the aforesaid documents. It was further stated that, as per Section 127(1), the petitioners are only required to produce documents showing their title to the land under reservation. Thus, the purchase notice issued by the petitioners, under Section 127 of the aforesaid Act, was duly served upon the

respondents on 16.09.2022. Even after passage of 24 months, i.e., on 16.09.2024, the respondents did not acquire the aforesaid land of the petitioners. Hence, the petitioners approached this Court by filing the present writ petition on 09.10.2024, seeking the aforesaid declaration as to the lapsing of reservation of the aforesaid land.

5. Upon notice issued by this Court, respondent No.3 - the appropriate authority, appeared and filed its reply on 21.02.2025. Respondent No.3 has not disputed the title and interest of the petitioners, nor the service of the purchase notice issued by the petitioners under Section 127 of the aforesaid Act upon it on 16.09.2022. However, the main thrust of the opposition by the respondent No.3 to the grant of relief in the present writ petition is revealed in paras 7 to 9 of the aforesaid reply, which reads thus :

“7] It is further admitted that after issuance of the notice by the petitioners on 17.03.2022 u/s 127 of MRTPA Act for the plot under reservation of playground (MW-4) out of Kh. No.21/3, Mouza: Kachimeth, the answering respondent vide its letter dated 21.10.2022, asked the petitioners to submit the essential ownership documents like 'K' Prat and Akhiv Patrika so that the provision of DP can be superimposed on the said layout and also it helps to find out the actual reservation by which the plot is affected. The copy of letter dated 21.10.2022 annexed as ANNEXURE : R-3 for the kind perusal of this Hon'ble Court.

8] The petitioners did not submit their documents which were asked to submit vide letter dated 21.10.2022 therefore, the entire petition suffers on account of deficiency of documents.

9] That, as per the factual position after non-compliance of the requisite documents by the petitioners with reference to aforesaid letters were issued to the petitioners and their

counsel. However, the answering respondent vide its letter dated 05.01.2023 had already communicated to the State Government that due to the deficiency of documents the said notice u/s 127 cannot be considered therefore, the entire petition frustrates. The copy of letter dated 05.01.2023 is annexed as ANNEXURE : R-4 for the kind perusal of this Hon'ble Court."

Thus, respondent No.3 has contended that, since the petitioners had not submitted documents like 'K' Prat and Akhiv Patrika, respondent No.3 did not consider the aforesaid purchase notice due to the deficiency of such documents. This is the sole ground on which the present writ petition has been opposed by respondent No.3.

6. In our considered opinion, such a defence raised by respondent No.3 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.

7. 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.3 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.

8. 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.”

9. 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.

10. 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 MRTP Act upon expiry of 24 months from 16.09.2022. 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 declared that the reservation for playground *vide* Reservation No.MW-4 in Revised Final Development Plan, affecting the land bearing Plot No.W-5 out of the layout of Mahadeo Nagar Grihnirman Co-operative Housing Society, Nagpur, area admeasuring 4800 sq. ft., being a portion of the entire land of Khasra No.21/3 of Mouza Kachimet, Mouza No.189, Thak No.36, P.S.K. 7, Sheet No.168C/12, City Survey No.21, Ward No.74, Taluka and District Nagpur, 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 the lapsing of reservation under Section 127 sub-Section (2) of the aforesaid Act and declare that the reservation of playground *vide* Reservation No.MW-4 in Revised Final Development Plan, affecting the land bearing Plot No.W-5 out of the layout of Mahadeo Nagar Grihnirman Co-operative Housing Society, Nagpur, area admeasuring

4800 sq. ft., being a portion of the entire land of Khasra No.21/3 of Mouza Kachimet, Mouza No.189, Thak No.36, P.S.K. 7, Sheet No.168C/12, City Survey No.21, Ward No.74, Taluka and District Nagpur, has lapsed.

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

(RAJ D. WAKODE, J.)

(ANIL S. KILOR, J.)