



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

WRIT PETITION NO. 5858 OF 2025

1. Tarendra Purushottam Shejapal
Age : 53 yrs, Occ: Business,
R/o c/o Purushotam Shejapal behind
Joddeul Pathanpura, Chandrapur – 442401

2. Anwar Hasan Abdul Majid
Age: 56 yrs, Occ: Business,
R/o At Post MAJARI Shivaji Nagar,
Tq. Bhadravati Dist. Chandrapur 442401

.... Petitioners.

vs.

1. State of Maharashtra,
through The Secretary, Urban Development
Department, State of Maharashtra,
Mantralaya, Mumbai

2. The Maharashtra Housing and Area
Development Authority (MHADA),
through its Chief Officer, Civil Line,
Temple Road, Raja-Rani Chowk,
Near Aamdar Nivas, Nagpur

.... Respondents

Shri G. K. Mundhada, Advocate for petitioner.

Shri P. P. Pendke, Assistant Government Pleader for respondent No.1/State.

Shri Pankaj Tidke, Advocate for respondent No.2.

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

DATE : 26th March, 2026.

JUDGMENT : (Per : Raj D. Wakode, J.)

Heard Shri G. K. Mundhada, learned counsel for the
petitioners, Shri P. P. Pendke, learned Assistant Government Pleader

for respondent No.1 and Shri Pankaj Tidke, learned counsel for respondent No.2/MHADA.

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

3. The petitioners are joint owner of the property and in possession and persons interested in development of land bearing Survey No. 92/2, area admeasuring 0.76 HR. of Village Kosara Tq. Chandrapur Dist. Chandrapur (hereinafter "said land"). This land is situated within the development limits of Chandrapur, Dist. Chandrapur.

4. Respondent No. 2 is the Maharashtra Housing and Area Development Authority ("MHADA" for short) who is appointed as the "Special Planning Authority" under Section 40(1)(b) of Maharashtra Regional and Town Planning Act, 1966 (for short, the said Act), to undertake the planned and orderly development of notified area of New Chandrapur.

5. The Regional Development Plan of Chandrapur-Ballarpur Region was published by Urban Development Department, Government of Maharashtra vide notification no. TPS-2294/471/CR-159/UD-9 on 30/06/1998 and came into force after its sanction on 01/09/1998. In this Regional Development Plan said land was affected

vide reservation No. 49 for Secondary School, reservation No.50 for playground and reservation No.51 for primary school.

6. It is submitted that as the petitioners were interested in the development of said land, on 01/09/2023 they had issued purchase notice u/s 127 of the said Act to respondent No.2. Said notice was served personally alongwith the documents showing ownership such as Sale-deed registered at 2091/2002, talathi map, measurement sheet and part plan. By the said notice petitioners called upon the respondent to acquire the said land within statutory period of twenty-four months from the date of receipt of said notice. Said notice was duly served in the office of respondent No. 2 personally on Dt. 01/09/2023 and acknowledgment was taken from the office bearers of respondent No. 2/ Special Planning Authority who is responsible for the acquisition of said land as per the scheme of Regional Development Plan.

7. Notice u/s 127 of the said Act was received by respondent No.2 on 01/09/2023 and the statutory period of the twenty four months came to an end on 31/08/2025. Non-issuing notification u/s 126 (2) & (4) of the said Act read with Section 19 of The Right to Fair Compensation And Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, the Act of 2013) has crystalised right in favour of the petitioners.

8. In view of the above, the petitioners have approached this Court to seek declaration that reservation for Secondary School vide reservation No.49, playground vide reservation No.50 and Primary School vide reservation No.51 affecting the aforesaid land owned by the petitioners has lapsed under Section 127 of the said Act.

9. Shri Pankaj Tidke, learned counsel who appears for respondent No.2 has filed reply on 28/01/2026 opposing the writ petition. The main thrust of such opposition by respondent No.2 is that present petitioners are claiming ownership of the subject land on the basis of a sale deed executed in the year 2002. It is submitted that the said Sale-Deed was executed after publication of reservation notification in the year 1998 and therefore the petitioners are subsequent purchaser having full knowledge of the statutory reservation. Thus, the contention of respondent No.2 is that the original owner of the land viz. Balkrushna S/o Vithuji Vaidya did not have right to sell the land freely after it was reserved under the Development Plan.

10. It is pertinent to note that the aforesaid ground as raised by respondent No.2 is already dealt with by this Court in case of *Shivram Kondaji Sathe and ors. vs. State of Maharashtra and ors.* **2009 (2) ALL MR 347**, wherein this Court has held in paragraph 6 of the judgment as under :

“ 6. It is admitted position in the present case that the petitioners property situated at Shirasgaon in the Municipal area of Shrirampur Municipal Council was reserved for play ground for last several years. In spite of reservation of the said plot of land, respondents failed to complete acquisition proceedings till filing of the present writ petition in this Court. For want of acquisition proceedings the petitioners issued notice under section 127 of the said Act to the respondents and requested the respondents either to acquire their land by following due process of law or dereserve the same so that the petitioners can develop the said property. Though the respondents raised objections about dereservation of the petitioners property from development plan on the ground that when the petitioners purchased the said property from previous owner at that time the land was under reservation, this submission of respondents cannot stand in law because they failed to complete the acquisition proceedings within time by following due process of law. Learned Counsel appearing on behalf of respondents have not pointed out single provision of law to the effect that which lands are reserved in town planning for particular purpose then no one can deal with those lands. For want of any provisions of law about prohibition of sale and purchase of the land which were reserved for particular purpose in development plans, the submission made by the respondents cannot stand in law. The respondents further submitted that after getting purchase notice under section 127 of the said Act from the petitioners they started acquisition proceedings in time. This submission cannot be acceptable in law because respondents failed to point out about issuing notice under section 6 of the Land Acquisition Act and or completing acquisition proceedings within statutory period as per section 127 of the said Act.”

11. Thus, in our considered opinion, the aforesaid ground as raised by respondent No.2 cannot be accepted as there is no prohibition regarding transfer of ownership of the land reserved in town planning for a particular purpose and accordingly the aforesaid ground raised by respondent No.2 is rejected.

12. Respondent No.2 in paragraphs 10 and 11 of its reply has raised another ground opposing the writ petition which read thus :

“ 10. It is the pertinent to note that the Petitioner has sent purchase notice U/s 127 of MRTP act on 1.09.2023 and they called upon the Respondents to acquire the said land within a period of 24 months, the Respondent authority has already taken steps by demanding amount o Rs. 52 crores from the Respondent no. 1 i.e. State Government for the acquisition of the said land but due to the non-receipt of the require funds, MHADA was unable to initiate the acquisition process or compensate the petitioners within the statutory period of twenty-four months.

11. It is further submitted that, the special planning authority received notice from the Petitioner U/s 127 of the MRTP Act but due to non-receipt of the funds for acquisition, Respondent No.2 was unable initiate acquisition process.”

13. The respondent No.2 though alleges that a demand has been made to the State Government for the compensation amount but the fact remains that within the statutory period of twenty four months no declaration under sub-Section (2) or (4) of Section 126 of the said Act is

published in the official gazette within the statutory period. Section 126 (2) of the aforesaid Act clearly provides that if the State Government is satisfied that the land specified is needed for public purpose, it may make a declaration to that effect in the official gazette in the manner provided in Section 19 of the Act of 2013 in respect of such land. Admittedly, no such declaration have been made by the respondent within the statutory period of twenty four months from the date of service of notice and thus the provisions of Section 127 of the aforesaid Act would come into play and the reservation of the aforesaid land should lapse. In the light of the principles underlining under Section 127 of the said Act, the reservation shall be deemed to have lapsed if no steps are taken for acquisition of such land within the prescribed period. Admittedly, in the present case the respondents have not taken any steps to issue notification after receipt of the purchase notice. Thus, the second objection raised by the present respondent No.2 is also unsustainable in the eyes of law and deserves to be rejected by this Court.

14. In the light of above discussion and well settled legal position, we find that the reservation for the aforesaid land has lapsed under Section 127 sub-Section (2) of the said Act on expiry of twenty four months from 01/09/2023. Hence, the petitioners are entitled for the relief of direction to permit them to develop the land as prayed for by

them which was subjected for reservation. In that view of the matter, we proceed to pass the following order :

- (i) The writ petition is allowed.
- (ii) It is declared that the reservation No.49 for purpose of Secondary School, reservation No.50 for playground and reservation No.51 for Primary School affecting land bearing Survey No.92/2 area admeasuring 0.76 HR of village Kosara Tq. Chandrapur, Dist. Chandrapur owned by the petitioners 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 Regional Development Plan of Chandrapur.
- (iii) The respondents shall, within a period of eight weeks from the receipt of copy of this judgment, publish in the Official Gazette the notification of lapsing of reservation under Section 127 sub-Section (2) of the Maharashtra Regional and Town Planning Act, 1966 and declare that reservation No.49 for purpose of Secondary School, reservation No.50 for playground and reservation No.51 for Primary School affecting land bearing Survey No.92/2 area admeasuring 0.76 HR of village Kosara Tq. Chandrapur, Dist. Chandrapur has lapsed.
- (iv) The petitioners are free to develop the aforesaid land owned by them in the manner permissible to adjacent land as per the development plan.

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

(Raj D. Wakode, J.)

(Anil S. Kilor, J.)