



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

WRIT PETITION NO. 6233 OF 2025

Shree Saibaba Niyojit Co-operative
Housing Society (Association of Plot Holders &
members of Shivaji Nagar Sahakar Bhadekaru
Maliki Grih Nirman Society Ltd.)
Re. No.NGP/HSG/193/65), through its
Authorized Signatory Shri Ganesh s/o Shalikram
Paunikar, aged about 48 years, R/o, Juni
Mangalwari Gujar Chowk, Nagpur-08

.... Petitioner/s.

vs.

1. State of Maharashtra,
Urban Development Department,
through its Principal Secretary,
having office at :-Mantralaya,
Mumbai - 400032
2. Nagpur Improvement Trust,
through its Chairman, having
office at :-Station Road, Sadar,
Nagpur - 440001
3. Nagpur Municipal Corporation,
through its Municipal Commissioner,
Having office at:- Civil Lines, Nagpur 440001
4. Shivaji Nagpur Co-operative Housing
Society Ltd. Nagpur (earlier known as
Shivaji Nagar Sahakar Bhadekaru Maliki
Grih Nirman Society Limited
registration No. NGP/HSG/193/65),
through its President Mr. Ravindra @ Narendra
s/o Vinayakrao Gorle, Aged: 58 years,
Occ. : Business, Having office at: Plot No.10,
New Subhedar Layout Extension, Nagpur

... Respondents

Shri Madhur Deo, Advocate with Ms Disha C. Kamwani, Advocate for petitioners.
Ms Tajwar Khan, Assistant Government Pleader for respondent No.1/State.
Shri G. A. Kunte, Advocate for respondent No.2.
Shri S. M. Puranik, Advocate for respondent No.3.
Shri S. D. Pundkar, Advocate for reservation No.4.

CORAM : ANIL S. KILOR AND RAJ D. WAKODE, JJ.
DATE : 24th April, 2026.

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

Heard Shri Madhur Deo along with Ms Disha Kamwani, learned counsel for the petitioners, Ms Tajwar Khan, learned Assistant Government Pleader for respondent No.1 State, Shri Girish Kunte, learned counsel for respondent No.2, Shri S. M. Puranik, learned counsel for respondent No.3 and Shri S. D. Pundkar, learned counsel for respondent No.4.

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

3. The facts leading to the present petition are as follows :

The petitioners-Society is an Association of Plot holders and members of Shivaji Nagar Sahakar Bhadekaru Maliki Grih Nirman Society Ltd. i.e. respondent No.4. The aforesaid Association is duly registered under the title Shree Saibaba Niyojit Co-operative Housing Society bearing Registration No.NGP/HSG/193/65. The petitioners-Society has approached this Court seeking declaration that the reservation for the purposes of 12 meter wide road, community center and park over 51 plots carved out on the land owned by the members of the petitioner-Society stands lapsed under Section 127 (1) of the Maharashtra Regional & Town Planning Act, 1956 (herein after referred as the said Act).

4. The members of the petitioner-Society had purchased plots out of all that piece and parcel of land admeasuring about 8.65 Acres bearing Kh. No.53, P. H. No.34, City Survey No.171, Sheet No.337/42, Mouza:-Wathoda, Tahsil & District:- Nagpur (hereinafter, referred to as "the said land", for the sake of brevity) from respondent No.4.

5. The Final Development Plan for the City of Nagpur came to be sanctioned and published vide Gazette Notifications No. TPS-2496/2643/CR-300(a)/97/UD-9 dated 07.01.2000 and TPS-2400/1628/CR-200/2000/UD-9 dated 10.09.2001 by the Urban Development Department, Government of Maharashtra. Thus, the Final Development Plan for the City of Nagpur came into force on 10.9.2001 and 51 plots carved out on the said land bearing Khasra No. 53, Mouza: Wathoda, Tahsil & District Nagpur came to be reserved for the purposes of 12-Met.-Wide Road, community center and park. Though the revised Development Plan published by the Urban Development Department of the respondent No.1 came into force on 10.09.2001, for a period of more than twenty years, the respondent No.2 took no steps for acquiring the aforesaid land for the purpose of the aforesaid reservation.

6. Hence, the petitioners issued purchase notice under Section 127 of the said Act to respondent No.2 and others concerned on 21.02.2023 (record page No.84 Annexure-F) alongwith documents showing title and interest of the petitioners in the said land and calling upon them to purchase the said

property by paying its fair and adequate compensation. The aforesaid notice was duly served upon respondent No.2 on 22.02.2023. The aforesaid fact is duly substantiated by communication issued by respondent No.2 (record page 92, Annexure-G) wherein Public Information Officer/Branch Officer, NIT, Nagpur has admitted the receipt of such notice on 22.02.2023. Admittedly, from 22.02.2023 till 22.02.2025 i.e. till completion of 24 months, the respondents neither acquired the aforesaid land of the petitioners nor has issued any declaration under sub-section (2) or (4) of Section 126 of the said Act in the official gazette and thus have taken no steps as contemplated under Section 127 of the said Act for acquiring the aforesaid land of the petitioners. In view of the above, the petitioners have approached this Court by filing the present petition seeking declaration that the reservation of the aforesaid land stands lapsed under Section 127 of the aforesaid Act.

7. In compliance of the notice issued by this Court, the respondent No.2 entered appearance and filed reply on 15.04.2026. Shri Girish Kunte, learned counsel for respondent No.2 pointed out that notice dated 21.02.2023 whereby the petitioners have requested to take steps in accordance with law for purchasing the land of the petitioners, is essentially a defective notice as the petitioners did not annex the necessary documents with the aforesaid notice; more specifically measurement sheet in respect of Kh. No.53 of Mouza Wathoda. Thus, the learned counsel submits that the entire petition suffers

from fatal defect and deserves to be dismissed.

8. Shri Madhur Deo, learned counsel for the petitioners submits that the aforesaid issue regarding defective notice as raised by respondent No.2 is no more *res integra* in view of the recent judgment delivered at the Principal Seat in case of *Yakub Salebbhai Contractor and ors. vs. State of Maharashtra and ors. MANU/MH/1484/2026* wherein it is held in paragraphs 17 to 21 of the judgment dated 17.02.2026 thus :

“ 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.

20. *Besides, upon perusal of the purchase notice under Section 127 of the MRTP Act, it is evident from Paragraphs 2 and 5 of the notice that the Petitioners have categorically provided a detailed description of the land in question. Furthermore, the Petitioners have referred to the 1978 DP reservation plan. Apart from the above, it is to be noted that the Respondent No. 3 Council by communication dated 25.11.2021 (page 100) admitted the receipt of the Purchase Notice dated 02.08.2021 on the same date. By the said communication, the Respondent No. 3- Council informed the Petitioners regarding the implementation of the revised DP plan of 2005-2006 and asked them to produce the documents accordingly. The said facts themselves indicate that the Respondent No. 3 does not dispute the receipt of notice even after ten years of implementation of the revised DP plan of 2005-06. Consequently, we find no merit in the objection/grievance raised by the learned Advocate for Respondent No.3, who contended that the Petitioners failed to provide the details of the land, or that the Purchase Notice did not disclose for which reservation number the Petitioners had issued the Purchase Notice.*

21. *Thus, it emerges that Respondent No. 3. having failed to take any steps to acquire the property within the period prescribed under Section 127 of the MRTP Act, the documents as sought by it are not required for the release of the land from reservation, allotment, or designation.”*

In view of above observations of the Court, the ground raised by respondent No.2 that purchase notice was defective in absence of the documents as mentioned therein, loses its force.

9. The fact remains that the respondent No.2 Competent Authority has

not disputed the title of the petitioners-Society as to the aforesaid land. The respondent No.2 has admitted the receipt of purchase notice issued under Section 127 of the aforesaid Act by the petitioners-Society on 22.02.2023. It is also an admitted position on record that even after lapse of 24 months on 22.02.2025, no declaration under sub-section (2) or (4) of Section 126 of the aforesaid Act is published in the official gazette and thus, the aforesaid land was neither acquired nor any steps as mentioned in Section 127 of the aforesaid Act commenced for its acquisition and thus the reservation of the aforesaid land stands lapsed.

10. 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 (2) of the Maharashtra Regional & Town Planning Act, 1966 on expiry of 24 months from 22.02.2023. 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.

11. In that view of the matter, we proceed to pass the following order :

- (i) The writ petition is allowed.
- (ii) It is declared that reservation for the purposes of 12-Metre-Wide Road, community center and park, over 51 plots carved out on land admeasuring about 8.65 Acres bearing Khasra No. 53, Patwari Halka No. 34, City Survey No. 171, Sheet No. 337/42, Mouza :-Wathoda, Tahsil & District:- Nagpur, in the Final Development Plan for City of Nagpur sanctioned and

published vide Gazette Notifications No.TPS-2496/2643/CR-300(a)/97/UD-9 dated 07.01.2000 & TPS-2400/1628/CR-200/2000/UD-9 dated 10.09.2001 issued by the Urban Development Department, Government of Maharashtra stands lapsed U/s. 127(1) of the Maharashtra Regional & Town Planning Act, 1966;

- (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 for the purposes of 12-Metre-Wide Road, community center and park, over 51 plots carved out on land admeasuring about 8.65 Acres bearing Khasra No. 53, Patwari Halka No. 34, City Survey No. 171, Sheet No. 337/42, Mouza :-Wathoda, Tahsil & District:- Nagpur, in the Final Development Plan for City of Nagpur sanctioned and published vide Gazette Notifications No.TPS-2496/2643/CR-300(a)/97/UD-9 dated 07.01.2000 & TPS-2400/1628/CR-200/2000/UD-9 dated 10.09.2001 issued by the Urban Development Department, Government of Maharashtra, 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.

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

(Raj D. Wakode, J.)

(Anil S. Kilor, J.)