



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1257 OF 2023

1. Vishwanath S/o Shantirappa Khekde
Age : 56 years, Occ : Business,
R/o Kapad Galli, Latur.
2. Shivling S/o Shantirappa Khekde
Age : 47 years, Occ : Business,
R/o Same as above.
3. Swati W/o Ramling Khekde
Age : 49 years, Occ : Household,
R/o Same as above

... PETITIONERS

...VERSUS...

1. State of Maharashtra
Urban Development Department,
Through its Secretary,
Mantralaya, Mumbai
2. Latur City Municipal Corporation,
Through its Commissioner,
Latur.

... RESPONDENTS

-
- Mr. S.V. Natu, Advocate for petitioners.
 - Mr. M.K. Goyanka, AGP for respondent no.1
 - Mr. S.P. Urgunde, Advocate for respondent no.2.
-

CORAM : ARUN R. PEDNEKER
AND
VAISHALI PATIL-JADHAV, JJ.

DATED : 17.03.2026



JUDGMENT [Per Vaishali Patil-Jadhav, J.] :

1. Rule. Rule made returnable forthwith and with the consent of the parties, the matter is taken up for final hearing at the admission stage.

2. By the present Writ Petition filed under Article 226 of the Constitution of India, the petitioners seek declaration that the reservation of the petitioners' land situated in Gat No.90 to the extent of 3 H 40 R within the Municipal limits of Latur for the purpose of Playground, High School, D.P road has lapsed under Section 127(1) of the Maharashtra Regional and Town Planning Act, 1966 (for short, "MRTP Act") and further to issue a writ of mandamus to the State to publish notification under Section 127(2) of the MRTP Act, declaring the aforesaid land as free from reservation.

3. Shorn of unnecessary details, the brief facts giving rise to the present petition can be summarized as under:-

Petitioners are the owners of a parcel of land bearing Gat No.90, to the extent of 3-H 40-R, situated within the municipal limits of Respondent No.2- Municipal Corporation. The Final Development Plan for Latur city was sanctioned on 02.01.2002. The Petitioners' land is reserved for Playground, High School and is partly affected by two, 9



metre wide D. P. roads vide reservation nos.82 and 83 in the development plan of 2002.

4. Respondent No.2 - Corporation is the planning authority which did not take steps for acquisition of the petitioners' reserved land within 10 years from the date on which the Final Development Plan came into existence. Petitioners issued purchase notice dated 26.11.2015 under Section 127 of the MRTP Act. Respondent No.2- Corporation did not take any steps for acquisition as contemplated under Section 126 of the MRTP Act, 1966 within 2 years from the date of issuance of notice under Section 127. Hence, the petitioners have filed the present writ petition seeking for a declaration that the reservation has lapsed.

5. Heard learned counsel for the respective parties.

6. Learned Counsel Shri. S.V. Natu would submit that though the notice was received by the Corporation along with annexures mentioned therein, the Corporation never intimated about any defect in the notice nor took any steps for acquisition of the reserved land. It was only by way of Affidavit-in-reply dated 20.02.2025 that the Corporation took a stand that the notice dated 26.11.2015 was defective as the title



documents were not annexed with the notice. Moreover, it is admitted that the notice was received and the Corporation had shown an inclination to compensate the petitioner in the form of TDR. He would submit that there cannot be a reservation in perpetuity and the Corporation cannot deprive the petitioner from enjoying their ownership rights.

7. Per contra, learned Advocate Shri. S. P. Urgunde appearing for the corporation would submit that the notice under Section 127 issued by the petitioners is itself defective as no title documents were annexed with the notice. He would submit that defective notice is itself a sufficient ground to reject the petition. He would further submit that by notice dated 01.01.2024, the Corporation asked the petitioners to submit necessary documents i.e. the 7/12 Extract, 8-A Extract and a map of the reserved land. However, instead of submitting the documents, the petitioners replied that the Corporation should file its reply in the writ petition. He would submit that the Corporation is ready to compensate the petitioners in the form of TDR as per Rules.

8. We have considered the rival submissions and perused the papers. As mentioned hereinabove, there is no dispute about the facts. If the date of finalization of the Development Plan i.e., 02/01/2002, is



considered as the starting point for Respondent No.2 - Corporation to acquire the petitioners' property, the petitioners having called upon it, to take appropriate steps for acquisition of their property by serving a notice under Sub-section (1) of Section 127 of MRTP Act, after ten years from 2002 or from the date of notice i.e. 26/11/2015 and the failure of the respondent – Corporation to take steps as contemplated therein for a period of next 24 months, the petitioners are otherwise entitled to seek a declaration and even a writ of mandamus as prayed for.

9. So far as the stand of the Corporation regarding the defective notice is concerned, it has no force, as in the same breath the Corporation has offered TDR to the petitioners, which the petitioners are not ready to accept. Otherwise also, the Corporation never asked the petitioners to supply any document from the date of receipt of the notice till 01.01.2024. The Corporation asked for the documents only after the petitioners filed the writ petition. The notice issued by the petitioners also indicates that the petitioners had attached 7/12 extracts of properties indicating that the petitioners have received the properties in partition. The defence of the Corporation that it was not annexed cannot be accepted at this belated stage. The 7/12 extracts of the land are public documents and could have been verified by the Corporation.



The petitioners before this Court also offered the Corporation to acquire the lands within one year; however, the same was not accepted by the Corporation. The Corporation cannot force the petitioners to accept TDR as offered in their response as has been held in ***Shree Vinayak Builders Vs. State of Maharashtra (Full Bench), 2022 (4) Mah.L.J. 739*** that acquisition under Section 126(1) (a) or 126(1)(b) being acquisition by agreement, there is no statutory remedy to challenge determination of compensation awarded in the form of money or the extent of TDR/FSI as per DCR. Under the circumstances, compelling the land owner to accept the compensation or FSI/TDR as determined/calculated by the Acquiring Authority, without questioning and bargaining will be unfair and lead to unjust and inequitable result. Suffice it to say that acquisition in breach of statutory provisions and without payment of just and fair compensation would tantamount to depriving the land owner of his property without the sanction of law and result in violation of Article 300A of the Constitution.

10. The law on the point of lapsing of reservation has been considered by the Supreme Court in the matter of “**Shrirampur Municipal Council Vs. Satyabhamabai Bhimaji Dawkher and others**”, (2013) 5 SCC 627. Para 43 of the said judgment reads thus :-



“43. The expression “No steps as aforesaid” used in Section 127 of the 1966 Act has to be read in the context of the provisions of the 1894 Act and mere passing of a resolution by the Planning Authority or sending of a letter to the Collector or even the State Government cannot be treated as commencement of the proceeding for the acquisition of the land under the 1966 Act or the 1894 Act. By enacting Sections 125 to 127 of the 1966 Act, the State Legislature has made a definite departure from the scheme of acquisition enshrined in the 1894 Act. But a holistic reading of these provisions makes it clear that while engrafting the substance of some of the provisions of the 1894 Act in the 1966 Act and leaving out other provisions, the State Legislature has ensured that the landowners/other interested persons, whose land is utilized for execution of the Development plan/Town Planning Scheme, etc., are not left high and dry. This is the reason why time limit of ten years has been prescribed in Section 31(5) and also under Sections 126 and 127 of the 1966 Act for the acquisition of land, with a stipulation that if the land is not acquired within six months of the service of notice under Section 127 or steps are not commenced for acquisition, reservation of the land will be deemed to have lapsed. Shri Naphade’s interpretation of the scheme of 126 and 127, if accepted, will lead to absurd results and the landowners will be deprived of their right to use the property for an indefinite period without being paid compensation. That would tantamount to depriving the citizens of their property



without the sanction of law and would result in violation of Article 300A of the Constitution.”

11. Consequently, Respondent No.2 Corporation having failed to take any steps as contemplated under Section 126 r/w relevant provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, this Court declares that the reservation on the abovementioned property of the petitioners stands lapsed. This Court directs the State to issue a notification to that effect under Section 127(2) of the MRTP Act.

12. Writ Petition is allowed.

13. It is declared that Reservation No.82 for Playground and Reservation No.83 for High School and Playground and two 9-meter wide D.P. roads from Gat No.90 to the extent of 3-H 40-R, situated at Latur within the limits of Municipal Corporation, Latur, in the development plan of Respondent No.2 - Corporation, have lapsed.

14. The Respondents shall take immediate steps and shall issue a notification under Sub-section (2) of Section 127 of the MRTP Act, in any case within eight (8) weeks.



15. Rule is made absolute in the above terms.

16. No order as to costs.

[VAISHALI PATIL-JADHAV, J.]

[ARUN R. PEDNEKER, J.]