IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1411 OF 2025

1. BHAGWAN @ BHAGWANT VENKATESHRAO DESHPANDE,
Age: 72 years, Occu.: Retired

2. ABHIJEET BHAGWANRAO DESHPANDE,
Age: 42 Years, Occu.: Business,
Both R/at, H-No-2-11 7/8,
Nirmal Sadan, Near Mahale Hospital,
Borban factory, Vazirabad,
Nanded – 431 601 .. Petitioners

Versus

1. THE STATE OF MAHARASHTRA,
Through the Secretary,
Urban Development Department,
Mantralaya, Mumbai – 32

2. THE COLLECTOR LATUR,
Latur District, at Latur

3. THE DIRECTOR OF TOWN PLANNING,
Maharashtra State, Central Building,
Opp. Sassoon Hospital, Pune,
District Pune

4. THE COMMISSIONER,
Latur Municipal Corporation,
Municipal Corporation building,
Main Road, Latur .. Respondents

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Advocate for the Petitioners : Mr. Avinash M Reddy
AGP for Respondents No.1 to 3: Ms. D. S. Jape
Advocate for Respondent No.4 : Mr. T. M. Venjane

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CORAM : SMT. VIBHA KANKANWADI &
SACHIN S. DESHMUKH, JJ.

Date : 17.06.2026

ORAL JUDGMENT *(Per Smt. Vibha Kankanwadi, J.)* :-

1. **Rule**. Rule made returnable forthwith. Heard finally both sides by consent at the stage of admission.

2. The Petitioners by invoking powers of this court under Article 226 of the Constitution of India are seeking the writ of mandamus to declare that the reservation on the part of property bearing Survey No.8 Gut No.7 admeasuring 67 Are and Survey No.8 Gut No.7 admeasuring 40 Are and Gut No.5 admeasuring 37 Are, situated at Vasangaon, Taluka and District Latur vide Reservation No.199, 200 and 201 has lapsed in view of the inaction on the part of the respondents to acquire the property.

3. The Petitioners have come with a case that they are the owners of the above said properties and those properties were under reservation by a Notification of Development Plan dated 02.01.2002. The reservation was for the purpose of play ground of the school. It is not disputed that the said pieces of land are within the jurisdiction of the Municipal Corporation which had published the Development Plan under Section 31 of The Maharashtra Regional and Town Planning Act, 1966 *(for brevity **"MRTP Act"**)*. After waiting for more than 12 years for acquisition

of the said land and development of the same, when the Respondent - Corporation failed to develop the land, the Petitioners had issued notice under Section 127 of the MRTP Act, on 12.02.2015. They had requested to acquire the land and grant compensation otherwise de-reserve the lands and allow the Petitioners to develop the same. Respondent No.4 by issuing communication dated 25.05.2015 offered issuance of TDR for development on the condition that the land to be transferred to them. The Petitioners had replied to the said communication on 03.03.2018 and refused to accept the TDR but then requested to de-reserve the land, still there was no response. Hence, the present petition.

4. Heard Mr. Avinash M. Reddy, learned Advocate for the Petitioners, Ms. D. S. Jape, learned AGP for Respondents No.1 to 3 and Mr. T. M. Venjane, learned Advocate for Respondent No.4.

5. The learned Advocate for the Petitioner has taken us through the documents on record and then he relies on the decision of the co-ordinate bench of this court in **Sushant Chandrakant Yeramwar and others Vs. The State of Maharashtra**

and others in **Writ Petition No.9613 of 2024, decided on 13.09.2024**, wherein the same Municipal Corporation had given same offer and when it was refused this court had then relied on the Judgment of the Full Bench of this court in **Shree Vinayak Builders and Developers Vs. The State of Maharashtra and others, 2022 (4) Mh.L.J. 739**; had allowed the petition.

6. The learned counsel for Respondent No.4 relies on the affidavit-in-reply of Mr. Panjab Shivhari Khansole, Deputy Commissioner of Respondent No.4, wherein most of the facts have been admitted. He disputes that the purchase notice under Section 127 of the MRTP Act issued by the Petitioner on 12.02.2015 is not valid and then reiterates the offer for negotiation and acceptance of TDR as a compensation of the reserved lands.

7. The learned Advocate for Respondent No.4 submits that it is the offer that has been given by the Corporation which has been refused and, therefore, the petition deserved to be dismissed.

8. Here it is to be noted that the facts are admitted that as per the Development Plan the lands were reserved, however,

neither the development has taken place nor the process of acquisition has been completed by payment of compensation to the Petitioners and, therefore, the notice under Section 127 of the MRTP Act has been issued. Reliance can be placed on **Girnar Traders Vs. State of Maharashtra, (2007) 7 SCC 555** and **Shrirampur Municipal Council, Shrirampur Vs. Satyabhambai Bhimaji Dawkher, (2013) 5 SCC 627**.

9. There is no question of any other legal point involved around the issuance of notice under Section 127 of the MRTP Act in this case and, therefore, it was mandatory on the part of Respondent No.4 to respond to the said notice. The response is by way of offering TDR in place of compensation. However, this court in the aforesaid Full Bench decision of **Shree Vinayak Builders and Developers Vs. The State of Maharashtra and others** *(supra)* has taken a view that the owner cannot be forced to accept the TDR only. In such circumstance, when Respondent No.4 has failed to carry out it's statutory duties, the Writ Petition stands allowed.

10. We, therefore, pass following order:-

ORDER

(I) It is declared that the reservation on part of property bearing Survey No.8, Gut No.7 admeasuring 67 Are and Survey No.8 Gut No.7 admeasuring 40 Are and Gut No.5 admeasuring 37 Are situated at Vasangaon, Taluka and Distrcit Latur, vide Reservation No.199, 200 and 201 has been lapsed in view of the inaction on the part of Respondent No.4 despite the notices dated 12.02.2015 and 03.03.2018 under Section 127 of the MRTP Act.

(II) The Respondent Corporation should submit the proposal of lapse of reservation to Respondent No.1 within 45 days and in turn the Respondent shall issue a Notification under Section 127(2) of the MRTP Act declaring that the reservation has lapsed. The said notification to come into effect within a period of 60 days.

(III) Rule is made absolute on above terms.

(SACHIN S. DESHMUKH, J.) **(SMT. VIBHA KANKANWADI, J.)**

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