[2025] 2 S.C.R. 1206 : 2025 INSC 265

Nirmiti Developers Through its Partners & Anr.
v.
The State of Maharashtra & Ors.

(Civil Appeal No(s). 3238-3239 of 2025)

25 February 2025

[J.B. Pardiwala* and R. Mahadevan, JJ.]

Issue for Consideration

Whether the reservation of the plot of land lapsed under Sections 49, 126 and 127 of the Maharashtra Regional & Town Planning Act, 1967 due to the failure of the authorities to acquire it within the statutory timeframe, thereby entitling the appellants to use the land as permissible under law.

Headnotes†

Maharashtra Regional & Town Planning Act, 1967 – Section 49, Section 126 and Section 127 – Reservation to lapse if no step taken for acquisition of land within the prescribed time period – Landowners are free to use land as if there was no reservation:

Vide the revised development plan for Amravati under the Maharashtra Regional & Town Planning Act, 1967 ['MRTP Act'], plot of land measuring 50,138 sq. ft. reserved for a private school for Respondent No. 5, a Public Trust – No steps were taken between 1993 and 2006 by Respondents to acquire the property – On 04.07.2006, the erstwhile owners served a purchase notice under Section 49 of the MRTP Act – Respondent No. 1 confirmed the notice on 02.01.2007 and ordered Respondent No. 5 to complete acquisition within 12 months, failing which the reservation would lapse – Acquisition proceedings were not completed by 02.01.2008, and no compensation was deposited by Respondent No. 5 with any authority – The erstwhile owners sold the land in December 2015 to the Appellants – In March 2016, the Appellants filed a writ petition in the High Court seeking either compensation from Respondent No. 5 for land reserved for it or declaration that the reservation had lapsed under Section 49(7) – The High Court in impugned order disposed of the Writ Petition taking the view that

* Author

Section 49(7) would not apply to the present Appellants as the erstwhile owners did not use the land after de-reserving it – Appeal against impugned order allowed – Held, as per Section 49(7), the reservation lapsed on 02.01.2008, allowing the erstwhile owners to use the plot of land as permissible in law.

Held: It is clear that the scheme of Sections 126 and 127 that if a period of 10 years has elapsed from the date of publication of the plan in question, and no steps for acquiring the land have been taken, then once a purchase notice is served under Section 127, steps to acquire the land must follow within a period of one year from the date of service of such notice, or else the land acquisition proceedings would lapse – The principles underlying in Section 127 of the MRTP Act is either to utilize the land for the purpose for which it is reserved in the timeline given or let the owner utilize the land for the purpose as permissible under the town planning scheme – The reservation shall be deemed to have lapsed if no steps are taken for acquisition of the said land within the prescribed period – Indisputably, in the present case, the respondents have not taken any steps to issue notification after receipt of the notice. [Paras 34, 47]

MRTP Act, 1967 – Section 126 and Section 127 – Statutory period of ten years sacrosanct – Reservation to lapse after ten years:

Held: The landowner cannot be deprived of the use of the land for years together – Once an embargo has been put on a landowner not to use the land in a particular manner, the said restriction cannot be kept open-ended for indefinite period – The statute has provided a period of ten years to acquire the land under Section 126 of the Act – Additional one year is granted to the landowner to serve a notice for acquisition – Such timeline is sacrosanct and has to be adhered to – It is declared that the reservation of the plot in question could be said to have lapsed by efflux of time even under Sections 126 and 127 of the MRTP Act. [Paras 50,51]

Constitution of India – Article 142 – Reservation to have lapsed owing to gross delay of thirty years:

Held: Having regard to the gross delay of almost thirty years in acquiring the land, even without the aid of Section 127 of the MRTP Act, in exercise of jurisdiction under Article 142 of the Constitution to do complete justice in the matter, the reservation would have been declared as having lapsed. [Para 52]

List of Acts

Maharashtra Regional & Town Planning Act, 1967.

List of Keywords

De-reserving land; Acquisition; Land Acquisition; Lapse; Reservation of land.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No(s). 3238-3239 of 2025

From the Judgment and Order dated 09.02.2017 and 07.04.2017 of the High Court of Judicature at Bombay at Nagpur in WP No. 1935 of 2016 and MCA No. 373 of 2017

Appearances for Parties

Advs. for the Appellants:
Gagan Sanghi, Mrs. Farah Hashmi, Rameshwar Prasad Goyal.

Advs. for the Respondents:
Nitin Lonkar, Siddharth Dharmadhikari, Aaditya Aniruddha Pande, M/s. Black & White Solicitors.

Judgment / Order of the Supreme Court

Judgment

J.B. Pardiwala, J.

1. Leave granted.

2. These captioned appeals arise from an order passed by the High Court of Judicature at Bombay, Nagpur Bench, dated 09-02-2017 in Writ Petition No.1935/2016 by which the Writ Petition filed by the appellants – herein came to be disposed of reserving liberty for the appellants to take necessary steps as open to them in law.

3. The facts giving rise to these petitions may be summarized as under.

4. The subject-matter of this litigation is a vacant plot of land admeasuring 50,138 sq.ft (46.5 R) in Survey No. 81/3 (New) 3 (old) in Mouza Rajapeth, Amravati, Maharashtra. This plot originally was jointly owned

by Smt Akhtar Bano Rashid, Abdul Majid A. Samad & Mohammad Sajid A. Samad (previous owners) respectively, and formed part of the larger plot admeasuring 2.47 Hectare. The property in question is situated within the municipal limits of Respondent No.3 – herein.

5. The erstwhile owners had submitted a lay-out plan for development of 2.47 hectare to Respondent No.3. The Respondent No.3 sanctioned the development plan for the residential area and the remaining area admeasuring 50,138 Sq.ft. was reserved for Government school.

6. On 25-02-1993, a revised development plan for Amravati under the Maharashtra Regional and Town Planning Act, 1966 (for short "the MRTP Act") came into effect in which the property was shown as reserved for a private school in favour of the Respondent No.5 vide Reservation No.195. Till 2006, i.e., almost for a period of 13 years, no steps were taken to acquire the property.

7. On 04-07-2006, the original owners served the purchase notice under Section 149 of the MRTP Act on the Respondent No.1 calling upon the said respondent either to acquire the property or to release it from reservation.

8. On 02-01-2007 the Respondent No.1 acknowledged the purchase notice. The Respondent No.1 directed the Respondent No.5 to complete the acquisition proceedings within a period of one year, failing which the reservation in its favour would lapse.

9. On 29-12-2007, the Respondent No.5 requested the Respondent No.7 to initiate proceedings for acquiring the land under Section 126 of the MRTP Act.

10. Till 02-01-2008, no action was taken by the Respondent No.5 to commence the acquisition proceedings within one year of confirmation of the purchase notice.

11. On 13-08-2014, the previous owners issued a purchase notice under Section 127 of the MRTP Act to the Respondent Nos.1,3,4 and 6 respectively requesting them to acquire the land.

12. On 12-06-2015, the Respondent No.6 received the proposal from Respondent No.5 to acquire the land.

13. On 30-12-2015, the petitioner – herein purchased the property from the erstwhile owners for Rs.1.26 Crore.

14. On 16-03-2016, the appellants filed a Writ Petition praying that (a) the Respondent No.5 be directed to deposit the amount of compensation to be paid to the appellants for acquisition under the new Land Acquisition Act, 2017 and complete the acquisition & (b) declare that the reservation had lapsed under Section 49(7) of the Act.

15. On 01-10-2016, reply was filed by the Respondent Nos. 6 and 7 respectively stating that on 12-6-2015, proposal from the Respondent No.5 was received and LAC was registered but till that date the Respondent No.5 had not deposited a single penny with the LAO and the Respondent Nos.6 and 7 had reasons to believe that the Respondent No.5 was not interested in developing the said land.

16. On 13-10-2016, the Respondent No.3 filed an additional claim not disclosed by the appellants in their notice dated 13-8-2014.

17. In such circumstances, referred to above, the petitions filed by the appellants came to be disposed of by the High Court which reads thus:-

Order dated 09-02-2017 reads thus:-

> "Heard Shri G.K Mundhada, learned Counsel for the petitioners, Shri N. Rao, learned A.G.P. for respondent nos.1,2,4,6 and 7, Shri R. Darda, learned Counsel for respondent nos. 3 and 4 and Shri S. Ghodeswar, learned Counsel for respondent no.5.
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> 2. Petitioner is a purchaser who has bought property from original owners. Original owners issued a notice under Section 49[1] of the Maharashtra Regional and Town Planning Act, that notice is dated 04-07-2006. It was confirmed on 02-01-2007, within a period of one year, thereafter no steps for acquisition were taken. Original owners thereafter did not take any steps for development. They have sold the property on 31-12-2015 to the present developer.
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> 3. Effort of learned counsel for the petitioners is to urge that before that in 2015, original owners had sought permission to raise compound wall and the same was declined. Thus, after confirmation of purchase notice, expiry of period of one year therefrom, at least for a period of 6 years no steps to develop the same were taken by the original owners.

4. Two separate procedures are deliberately made available under the Act. A person who wants to immediately develop his property can take recourse to section 49, otherwise he has to wait for a period of 10 years as envisaged under Section 127[1] thereof. Section 49 is not meant for getting the property de-reserved and then to wait for appropriate time to sell out it in open market.

5. Here petitioner is a developer, it has not taken any steps after purchase to issue notice either under Section 49 or under Section 127 of the Act.

6. Notice given by the previous land owners was under Section 49 only and as no advantage of de-reservation was taken for more than 6 years, we find that, that notice or then the benefits flowing therefrom cannot accrue to the benefits of present petitioners. Hence, with liberty to petitioner to take such other steps as are open to him in law, we dispose of the present petition. No costs."

Order dated 07-04-2017: (IN REVIEW PETITION)

"Heard Shri S.K. Mishra, learned Senior Counsel with Shri G.K. Mundhada, learned Counsel for applicants and learned A.G.P. for non-applicant nos. 1,2,6 and 7.

2. Learned Senior Counsel submits that literal meaning of Section 49 of the Maharashtra Regional and Town Planning Act, 1966 should be adhered to and as the reservation had already lapsed, purchaser is not required to go through the rigmarole of serving notice either under Section 49 or under Section 127 again. He contends that the finding of this Court in paragraph no.4 are, therefore, contrary to Scheme of Section 49.

3. This Court has already in judgment in case of Kishor Maganlal Vyas vs. State of Maharashtra and others (Writ Petition No. 506/2011. Dated 11-06-2012), held that normally procedure for de-reservation is Section 127, wherein the local authority gets time of 10 years to acquire the property. However, to mitigate the hardship caused to a genuine needy owner, a provision has been made in Section 49 and hence, a specified class of owners emerging therein can only take recourse to it.

> 4. Here we have found that after lapsing of reservation for a period of 6 years the earlier owner had not either developed the property or sold it out. Thus, the property was lying as it is, and hence, recourse to Section 49 itself is found not proper. De-reservation here was used to get the best desired price after waiting for long time. Section 127 of the Act gives reasonable time to acquiring body to act and acquire. De-reservation thereunder may therefore enure to the benefit of purchaser also. Same cannot be said in respect of Section 49 de-reservation. Section 49 operates on personal need of the owner and it cannot enure to the benefit of purchaser like petitioner. It is in this background, that we have held that the purchaser from that owner [present applicant] has not taken necessary steps either under Section 49 or under Section 127 of the Act.
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> 5. We, therefore, find no case made out warranting review. Misc. Civil Application is thus rejected. No costs."

18. The High Court took the view that the person intending to develop his property at the earliest can take recourse of Section 49 otherwise he has to wait for a period of 10 years as envisaged under Section 127(1) thereof.

19. The High Court took notice of the fact that although the original owners had completed the procedure to get the land de-reserved by issuing notice under Section 49 yet as they sold the plot to the present appellants Section 49 would not apply to the purchasers. In other words, Section 49 according to the High Court is not meant for getting the property de-reserved and then to wait for appropriate time to sell it in the open market.

20. According to the High Court, the petitioner being a developer had not taken any steps after purchase, i.e., to issue notice either under Section 49 or under Section 127 of the Act.

21. The High Court, taking the view, as aforesaid, disposed of the petition granting liberty to the appellants – herein to take appropriate steps in accordance with law.

22. We heard Mr. Gagan Sanghi, the learned counsel appearing for the appellants and Mr. Suhaskumar Kadam, the learned counsel appearing for Respondent No.3 – Corporation.

23. Section 49 of the MRTP Act reads thus:-

> "49. Obligation to acquire land on refusal of permission or on grant of permission in certain cases.—(1) Where—
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> (a) any land is designated by a plan as subject to compulsory acquisition, or
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> (b) any land is allotted by a plan for the purpose of any functions of a Government or local authority or statutory body, or is land designated in such plan as a site proposed to be developed for the purposes of any functions of any such Government, authority or body, or
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> (c) any land is indicated in any plan as land on which a highway is proposed to be constructed or included, or
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> (d) any land for the development of which permission is refused or is granted subject to conditions, and any owner of land referred to in Clause (a), (b), (c) or (d) claims—
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> (i) that the land has become incapable of reasonably beneficial use in its existing state, or
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> (ii) (where planning permission is given subject to conditions) that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the permitted development in accordance with the conditions; or
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> (e) the owner of the land because of its designation or allocation in any plan claims that he is unable to sell it except at a lower price than that at which he might reasonably have been excepted to sell if it were not so designated or allocated, the owner or person affected may serve on the State Government within such time and in such manner, as is prescribed by regulations, a notice (hereinafter referred to as "the purchase notice") requiring the Appropriate Authority to purchase the interest in the land in accordance with the provisions of this Act.

(2) The purchase notice shall be accompanied by a copy of any application made by the applicant to the Planning Authority, and of any order or decision of that Authority and of the State Government, if any, in respect of which the notice is given.

(3) On receipt of a purchase notice, the State Government shall forthwith call from the Planning Authority and the Appropriate Authority such report or records or both, as may be necessary, which those authorities shall forward to the State Government as soon as possible but not later than thirty days from the date of their requisition.

(4) On receiving such records or reports, if the State Government is satisfied that the conditions specified in sub-section (1) are fulfilled, and that the order or decision for permission was not duly made on the ground that the applicant did not comply with any of the provisions of this Act or rules or regulations, it may confirm the purchase notice, or direct that planning permission be granted without condition or subject to such conditions as will make the land capable of reasonably beneficial use. In any other case, it may refuse to confirm the purchase notice, but in that case, it shall give the applicant a reasonable opportunity of being heard.

(5) If within a period of six months from the date on which a purchase notice is served the State Government does not pass any final order thereon, the notice shall be deemed to have been confirmed at the expiration of that period.

(6) [* * *]

(7) If within one year from the date of confirmation of the notice, the Appropriate Authority fails to make an application to acquire the land in respect of which the purchase notice has been confirmed as required under Section 126, the reservation, designation, allotment, indication or restriction on development of the land shall be deemed to have lapsed; and thereupon, the land shall be deemed to be released from the reservation, designation, or, as the case may be, allotment, indication or restriction and

shall become available to the owner for the purpose of development otherwise permissible in the case of adjacent land, under the relevant plan.

24. Section 126 of the MRTP Act reads thus:

> "126. Acquisition of land required for public purposes specified in plans
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> (1) When after the publication of a draft Regional plan, a Development or any other plan or town planning scheme, any land is required or reserved for any of the public purposes specified in any plan or scheme under this Act at any time, the Planning Authority, Development Authority, or as the case may be, [any Appropriate Authority may, except as otherwise provided in section 113A] [acquire the land,—
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> "(a) by agreement by paying an amount agreed to, or
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> (b) in lieu of any such amount, by granting the land-owner or the lessee, subject, however, to the lessee paying the lessor or depositing with the Planning Authority, Development Authority or Appropriate Authority, as the case may be, for payment to the lessor, an amount equivalent to the value of the lessor's interest to be determined by any of the said Authorities concerned [on the basis of the principles laid down in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013], Floor Space Index (FSI) or Transferable Development Rights (TDR) against the area of land surrendered free of cost and free from all encumbrances, and also further additional Floor Space Index or Transferable Development Rights against the development or construction of the amenity on the surrendered land at his cost, as the Final Development Control Regulations prepared in this behalf provide, or
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> (c) by making an application to the State Government for acquiring such land [under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement

Act, 2013] , and the land (together with the amenity, if any so developed or constructed) so acquired by agreement or by grant of Floor Space Index or additional Floor Space Index or Transferable Development Rights under this section [or under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013], as the case may be, shall vest absolutely free from all encumbrances in the Planning Authority, Development Authority, or as the case may be, any Appropriate Authority.

(2) On receipt of such application, if the State Government is satisfied that the land specified in the application is needed for the public purpose therein specified, or 4[if the State Government (except in cases falling under section 49 5[and except as provided in section 113A)] itself is of opinion] that any land included in any such plan is needed for any public purpose, it may make a declaration to that effect in the Official Gazette, [in the manner provided in section 19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013], in respect of the said land. The declaration so published shall, notwithstanding anything contained in the said Act, be deemed to be a declaration duly made under the said section:

[Provided that, subject to the provisions of sub-section (4), no such declaration shall be made after the expiry of one year from the date of publication of the draft Regional Plan, Development Plan or any other Plan, or Scheme, as the case may be.]

[(3) On publication of a declaration under the said 3 [section 19], the Collector shall proceed to take order for the acquisition of the land under the said Act; and the provisions of that Act shall apply to the acquisition of the said land with the modification that the market value of the land shall be,—

(i) where the land is to be acquired for the purposes of a new town, the market value prevailing on the date of

publication of the notification constituting or declaring the Development Authority for such town;

(ii) where the land is acquired for the purposes of a Special Planning Authority, the market value prevailing on the date of publication of the notification of the area as undeveloped area; and

(iii) in any other case, the market value on the date of publication of the interim development plan, the draft development plan or the plan for the area or areas for comprehensive development, whichever is earlier, or as the case may be, the date of publication of the draft Town Planning Scheme:

Provided that, nothing in this sub-section shall affect the date for the purpose of determining the market value of land in respect of which proceedings for acquisition commenced before the commencement of the Maharashtra Regional and Town Planning (Second Amendment) Act, 1972:

Provided further that, for the purpose of clause (ii) of this sub-section, the market value in respect of land included in any undeveloped area notified under sub-section (1) of section 40 prior to the commencement of the Maharashtra Regional and Town Planning (Second Amendment) Act, 1972, shall be the market value prevailing on the date of such commencement.]

[(4) 5[Notwithstanding anything contained in the proviso to sub-section (2) and subsection (3), if a declaration,] is not made, within the period referred to in sub-section (2) (or having been made, the aforesaid period expired on the commencement of the Maharashtra Regional and Town Planning 6[(Amendment) Act, 1993),] the State Government may make a fresh declaration for acquiring the land [under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013], in the manner provided by sub-sections (2) and (3) of this section, subject to the modification that the market value of the land shall be the market value at the date of declaration in the Official Gazette, made for acquiring the land afresh.]"

25. We must now look into Section 127 of the MRTP Act. Section 127 reads thus:

> "127. Lapsing of reservations.—(1) If any land reserved, allotted or designated for any purpose specified in any plan under this Act is not acquired by agreement within ten years from the date on which a final Regional Plan, or final Development Plan comes into force [or if a declaration under sub-section (2) or (4) of Section 126 is not published in the Official Gazette within such period, the owner or any person interested in the land may serve notice, alongwith the documents showing his title or interest in the said land, on the Planning Authority, the Development Authority or, as the case may be, the Appropriate Authority to that effect; and if within twelve months] from the date of the service of such notice, the land is not acquired or no steps as aforesaid are commenced for its acquisition, the reservation, allotment or designation shall be deemed to have lapsed, and thereupon, the land shall be deemed to be released from such reservation, allotment or designation and shall become available to the owner for the purpose of development as otherwise, permissible in the case of adjacent land under the relevant plan.
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> (2) On lapsing of reservation, allocation or designation of any land under sub-section (1), the Government shall notify the same, by an order published in the Official Gazette."

26. Section 127 of the MRTP Act is enacted for lapsing of reservation, allotment or designation for any purpose specified in the plan. The section prescribes, that if any land reserved, allotted or designated for any purpose specified in any plan under this Act is not acquired by agreement within ten years from the date on which a final Regional Plan or Development Plan comes into force or if proceedings for the acquisition of such land under this Act or under the Land Acquisition Act are not commenced within such period the owner or any, person interested in the land may serve notice on the Planning Authority, Development Authority or as the case may be, Appropriate Authority to that effect. If the concerned Authority within twelve months from the date of service of such notice, fails to acquire the land or no steps as aforesaid are initiated for its acquisition the reservation, allotment or

designation shall be deemed to have lapsed, and thereupon the land shall be deemed to be released from such reservation, allotment or designation and shall become available to the owner for the purpose of development as otherwise, permissible in the case of adjacent land under the relevant plan.

POSITION OF LAW

27. This Court in Chhabildas v. State of Maharashtra and others reported in 2018 INSC 106 while explaining Sections 49 and 127 of the MRTP Act respectively observed as under:

> "9. The scheme of Section 49 of the MRTP Act is to lay down timelines within which the appropriate authority must make an application to acquire the land in respect of which a purchase notice has been confirmed. The moment any of the conditions specified in the sub-section (1) are met, the owner or person affected may serve on the State Government, within the time and manner prescribed by regulations, a purchase notice requiring the appropriate authority to purchase the interest in the land in accordance with the provisions of this Act.
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> 10. On the receipt of the purchase notice as per sub-section (3), the State Government is to forthwith call from the planning authority or the appropriate authority such report or records as may be necessary, which the authority shall then forward to the State Government as soon as possible but not later than 30 days from the date of acquisition.
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> 11. In sub-section (4), if the State Government is satisfied that the conditions specified in sub-section (1) are fulfilled, it may either confirm the purchase notice; refuse to confirm the purchase notice; or direct that planning permission be granted with or without conditions. Under sub-section (5), if the steps contemplated after service of purchase notice leads to a situation where the State Government does not pass any orders thereon, the notice shall be deemed to have been confirmed at the expiration of that period. And finally, under sub-section (7), if within one year from the date of confirmation of purchase notice, the appropriate authority fails to make an application to acquire the land in

respect of which the purchase notice has been confirmed, the reservation, designation, allotment, indication or restriction on development of the land shall be deemed to have lapsed. Section 49(6), which was deleted by Maharashtra Act 6 of 1976, read as follows:

> "Upon confirmation of the notice, the State Government shall proceed to acquire the land or that part of any land regarding which the notice has been confirmed, within one year of the confirmation of the purchase notice, in accordance with the provisions of Chapter VII."

It is clear that, under this provision, if within one year from the confirmation of the purchase notice, the State Government did not acquire the land, then the consequence would be that the acquisition shall be deemed to have lapsed. This was a salutary provision, but seems to have been deleted so that Section 49 cases are brought on par with Section 126 cases.

12. The object of Section 49 is thus clear that once a purchase notice is received by the authorities, there arises, as the marginal note to the Section also indicates, an obligation to acquire land. The timelines contemplated by the section also indicate that the owner or person affected cannot be left to hang indefinitely without a decision to follow up the purchase notice by acquisition of the land in question.

13. However, it has been argued on behalf of the State that Section 49 abruptly ends with sub-section (7), after which there are no timelines indicated as to what is to happen after the appropriate authority makes an application to acquire the land within one year from the date of confirmation of the notice. In our view, this argument must be rejected, inasmuch as Section 49(1) itself states that the purchase notice must require the appropriate authority to purchase the interest in the land "in accordance with the provisions of this Act". This being so, once the appropriate authority makes the necessary application to acquire the land within time under Section 49(7), we move over to Sections 126 and 127 of the Act.

14. Under Section 126(1)(c), when after the publication of a draft regional plan or development or other plan, any land is required or reserved for a public purpose, the appropriate authority may make an application to the State Government, for acquiring such land under the Land Acquisition Act. Under sub-section (2) thereof, on receipt of such application, if the State Government is satisfied that the land specified in the application is needed for the public purpose specified therein, then excepting the cases falling under Section 49, the State Government may make a declaration under Section 6 of the Land Acquisition Act, to that effect. However, such declaration under Section 126(2) must be made within a period of one year from the date of publication of the plan in question.

15. A purchase notice may be served under Section 49, after the expiry of one year from the date of publication of the plan in question, in which case Section 126(2) of the Act will not apply. Under Section 126(4), the State Government may make a declaration under Section 6 subject to the modification that the market value of the land shall be the market value at the date of the declaration in the official gazette made for acquiring the land. But this does not mean that the State Government has carte blanche to do as it pleases. Ordinarily, the State Government is bound to act under Section 126(4) within a reasonable time from the appropriate authority making an application to acquire the land. This should ordinarily be within a period of one year from the date such an application is made. However, if such declaration is not made within the aforesaid period, it will be open for the aggrieved person to move the Court to direct the State Government to make the requisite declaration immediately.

16. But the matter does not end here. Thereafter, Section 127 kicks in. If a declaration under Section 6 of the Land Acquisition Act is not made within a period of 10 years from the date on which a plan comes into force under sub-section (4) of Section 126, the owner or any person interested in the land may serve a purchase notice on the authorities, and if within one year from the date of service

> of such notice, the land is not acquired or no steps are commenced for its acquisition, the reservation, allotment or designation shall be deemed to have lapsed."

28. In Girnar Traders v. State of Maharashtra reported in (2007) 7 SCC 555, a three-Judge Bench, by a majority judgment delivered by Naolekar, J. framed the question before the Court thus:

> "*19*. The question that requires consideration and answer in the present case is: Whether the reservation has lapsed due to the failure of the planning authority to take steps within the period of six months from the date of service of the notice of purchase as stipulated by Section 127 of the MRTP Act; and also the question as regards applicability of new Section 11-A of the LA Act to the acquisition of land under the MRTP Act."

29. After setting out Sections 126 and 127 respectively, this Court then laid down the scheme of Section 126, which makes it clear that the Section 6 notification under the Land Acquisition Act is to be issued, in cases where acquisition is made under Section 126(1)(*c*), in pursuance of an application by an appropriate authority to the State Government within one year from the publication of the plan in question, or by way of the State Government making a fresh declaration beyond a period of one year under Section 126(4). This is stated by the Court in para 28 as follows: (*Girnar case* SCC para 28)

> "*28*. Sub-section (2) of Section 126 provides for one year's limitation for publication of the declaration from the date of publication of the draft plan or scheme. Sub-section (4), however, empowers the State Government to make a fresh declaration under Section 6 of the LA Act even if the prescribed period of one year has expired. This declaration is to be issued by the State Government for acquisition of the land without there being any application moved by the planning/local authority under clause (*c*) of Section 126(1)."

30. Insofar as Section 127 is concerned, the Court went on to hold: (*Girnar case,* paras 31-32)

> "*31*. Section 127 prescribes two-time periods. First, a period of 10 years within which the acquisition of the land reserved,

allotted or designated has to be completed by agreement from the date on which a regional plan or development plan comes into force, or the proceedings for acquisition of such land under the MRTP Act or under the LA Act are commenced. Secondly, if the first part of Section 127 is not complied with or no steps are taken, then the second part of Section 127 will come into operation, under which a period of six months is provided from the date on which the notice has been served by the owner within which the land has to be acquired or the steps as aforesaid are to be commenced for its acquisition. The six month period shall commence from the date the owner or any person interested in the land serves a notice on the planning authority, development authority or appropriate authority expressing his intent claiming dereservation of the land. If neither of the things is done, the reservation shall lapse. If there is no notice by the owner or any person interested, there is no question of lapsing reservation, allotment or designation of the land under the development plan. Second part of Section 127 stipulates that the reservation of the land under a development scheme shall lapse if the land is not acquired or no steps are taken for acquisition of the land within the period of six months from the date of service of the purchase notice. The word "aforesaid" in the collocation of the words "no steps as aforesaid are commenced for its acquisition" obviously refers to the steps contemplated by Section 126 of the MRTP Act

32. If no proceedings as provided under Section 127 are taken and as a result thereof the reservation of the land lapses, the land shall be released from reservation, allotment or designation and shall be available to the owner for the purpose of development. The availability of the land to the owner for the development would only be for the purpose which is permissible in the case of adjacent land under the relevant plan. Thus, even after the release, the owner cannot utilise the land in whatever manner he deems fit and proper, but its utilisation has to be in conformity with the relevant plan for which the adjacent lands are permitted to be utilised."

31. The Court then went on to consider Municipal Corpn. of Greater Bombay v. Dr Hakimwadi Tenants' Assn reported in 1988 Supp SCC 55, and was of opinion that, the observations on the expression "no steps as aforesaid are commenced for its acquisition" stipulated under Section 127 were obiter in nature. The majority then went on to state the law under Section 127 as follows: (Girnar case paras 54-57)

> "*54*. When we conjointly read Sections 126 and 127 of the MRTP Act, it is apparent that the legislative intent is to expeditiously acquire the land reserved under the Town Planning Scheme and, therefore, various periods have been prescribed for acquisition of the owner's property. The intent and purpose of the provisions of Sections 126 and 127 has been well explained in *Municipal Corpn. of Greater Bombay case* [*Municipal Corpn. of Greater Bombay* v. *Dr Hakimwadi Tenants' Assn.*, 1988 Supp SCC 55]. If the acquisition is left for time immemorial in the hands of the authority concerned by simply making an application to the State Government for acquiring such land under the LA Act, 1894, then the authority will simply move such an application and if no such notification is issued by the State Government for one year of the publication of the draft regional plan under Section 126(2) read with Section 6 of the LA Act, wait for the notification to be issued by the State Government by exercising suo motu power under sub-section (4) of Section 126; and till then no declaration could be made under Section 127 as regards lapsing of reservation and contemplated declaration of land being released and available for the landowner for his utilisation as permitted under Section 127. Section 127 permitted inaction on the part of the acquisition authorities for a period of 10 years for dereservation of the land. Not only that, it gives a further time for either to acquire the land or to take steps for acquisition of the land within a period of six months from the date of service of notice by the landowner for dereservation. The steps towards commencement of the acquisition in such a situation would necessarily be the steps for acquisition and not a step which may not result into acquisition and merely for the purpose of seeking time so that Section 127 does not come into operation.

55. Providing the period of six months after the service of notice clearly indicates the intention of the legislature of an urgency where nothing has been done in regard to the land reserved under the plan for a period of 10 years and the owner is deprived of the utilisation of his land as per the user permissible under the plan. When mandate is given in a section requiring compliance within a particular period, the strict compliance is required therewith as introduction of this section is with legislative intent to balance the power of the State of "eminent domain". The State possessed the power to take or control the property of the owner for the benefit of public cause, but when the State so acted, it was obliged to compensate the injured upon making just compensation. Compensation provided to the owner is the release of the land for keeping the land under reservation for 10 years without taking any steps for acquisition of the same.

56. The underlying principle envisaged in Section 127 of the MRTP Act is either to utilise the land for the purpose it is reserved in the plan in a given time or let the owner utilise the land for the purpose it is permissible under the town planning scheme. The step taken under the section within the time stipulated should be towards acquisition of land. It is a step of acquisition of land and not step for acquisition of land. It is trite that failure of authorities to take steps which result in actual commencement of acquisition of land cannot be permitted to defeat the purpose and object of the scheme of acquisition under the MRTP Act by merely moving an application requesting the Government to acquire the land, which Government may or may not accept. Any step which may or may not culminate in the step for acquisition cannot be said to be a step towards acquisition.

57. It may also be noted that the legislature while enacting Section 127 has deliberately used the word "steps" (in plural and not in singular) which are required to be taken for acquisition of the land. On construction of Section 126 which provides for acquisition of the land under the MRTP Act, it is apparent that the steps for acquisition of the land would be issuance of the declaration under Section 6 of the

> LA Act. Clause (*c*) of Section 126(1) merely provides for a mode by which the State Government can be requested for the acquisition of the land under Section 6 of the LA Act. The making of an application to the State Government for acquisition of the land would not be a step for acquisition of the land under reservation. Sub-section (2) of Section 126 leaves it open to the State Government either to permit the acquisition or not to permit, considering the public purpose for which the acquisition is sought for by the authorities. Thus, the steps towards acquisition would really commence when the State Government permits the acquisition and as a result thereof publishes the declaration under Section 6 of the LA Act."

32. The scheme of Sections 126(2) and (4) was again reiterated in para 61 as follows: (*Girnar case* para 161)

> "*61*. Proviso to sub-section (2) of Section 126 prohibits publication of the declaration after the expiry of one year from the date of publication of draft regional plan, development plan or any other plan or scheme. Thus, from the date of publication of the draft regional plan, within one year an application has to be moved under clause (*c*) of Section 126(1) which should culminate into a declaration under Section 6 of the LA Act. As per the proviso to sub-section (2) of Section 126, the maximum period permitted between the publication of a draft regional plan and declaration by the Government in the Official Gazette under Section 126(2) is one year. In other words, during one year of the publication of the draft regional plan, two steps need to be completed, namely, (*i*) application by the appropriate authority to the State Government under Section 126(1)(*c*); and (*ii*) declaration by the State Government on receipt of the application mentioned in clause (*c*) of Section 126(1) on satisfaction of the conditions specified under Section 126(2). The only exception to this provision has been given under Section 126(4)."

33. In Shrirampur Municipal Council v. Satyabhamabai Bhimaji Dawkher reported in (2013) 5 SCC 627, this Court reiterated the findings given in Girnar (supra) majority judgment, and held that there was no conflict between the judgment in Hakimwadi (supra) and the majority judgment in Girnar(supra). This Court, thereafter, went on to hold:

"*42*. We are further of the view that the majority in *Girnar Traders* [*Girnar Traders* v. *State of Maharashtra*, (2007) 7 SCC 555] had rightly observed that steps towards the acquisition would really commence when the State Government takes active steps for the acquisition of the particular piece of land which leads to publication of the declaration under Section 6 of the 1894 Act. Any other interpretation of the scheme of Sections 126 and 127 of the 1966 Act will make the provisions wholly unworkable and leave the landowner at the mercy of the Planning Authority and the State Government.

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 proceedings for the acquisition of 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 utilised 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 Sections 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 300-A of the Constitution."

34. It is, thus, clear that the scheme of Sections 126 and 127 respectively would leave nobody in doubt, for the reason that if a period of 10 years has elapsed from the date of publication of the plan in question, and no steps for acquiring the land have been taken, then once a purchase notice is served under Section 127, steps to acquire the land must follow within a period of one year from the date of service of such notice, or else the land acquisition proceedings would lapse.

35. This Court in Chhabildas (supra) summed up the position in law as under:

> "24.1. In all Section 49 cases, where a purchase notice has been served and is confirmed within the period specified, the appropriate authority must make an application to acquire the land within one year from the date of confirmation of the notice. If it does not do so, the reservation, designation, etc. shall be deemed to have lapsed.
>
> 24.2. If within the period specified in Section 49(7), the appropriate authority makes the requisite application, then the State Government may acquire the land by making a declaration under Section 6 of the Land Acquisition Act as set out under Section 126(4), wherein the market value shall be the market value of the land as on the date of Section 6 declaration. Ordinarily, such declaration must be made within 1 year of the date of receipt of the requisite application. In case this is not done, it will be open to the aggrieved person to move the Court to direct the State Government to make the requisite declaration immediately.
>
> 24.3. If 10 years have passed from the date of publication of the plan in question, and a purchase notice has been served under Section 127, and no steps have been taken within a period of one year from the date of service of such notice, all proceedings shall be deemed to have lapsed. Thus, even in cases covered by Section 49, the drill of Section 126(4) and Section 127 will have to be followed, subsequent to the appropriate authority making an application to acquire the land within the period specified in Section 49(7)."

36. We take notice of the following:

a. On 11-01-1967, the MRTP Act came into force in the State of Maharashtra.

b. The property in question – Vacant plot admeasuring 50,138. Sq ft in Survey No. 81/3 (NEW) 3 (old) in Mouza Rajapeth Amravati, Maharashtra was originally owned jointly by Smt. Akhtar Bano Rashid, Abdul Majid A. Samad and Mohd. Sajid A. Samad respectively which was a part of the bigger plot admeasuring 2.47 hectare.

c. The erstwhile owners had submitted Land Development Plan for development of 2.47 hectare. The respondent No. 3 herein sanctioned the development plan for residential area and the remaining area admeasuring 50,138 sq. ft. was reserved for Government school.

d. On 25-02-1993, the revised development plan for Amravati came into effect in which the property in question was shown as reserved for a private school i.e., for the respondent No. 5. Respondent No. 5 is a Public Trust registered under the Maharashtra Public Trust Act, 1950.

e. From 1993 till 2006 no action was taken by the respondents to acquire the property for the private school.

f. On 04-07-2006, the erstwhile owners served purchase notice under Section 49 of the Act, 1966 on respondent No. 1 calling upon him either to acquire the said property or release it from reservation.

g. On 02-01-2007, the respondent No. 1 confirmed the purchase notice issued by the erstwhile owners.

h. By a letter dated 02-01-2007, the respondent No. 1 directed the respondent No. 5 to complete the acquisition proceedings within twelve months from the 02-01-2007 failing which the reservation would lapse and the property would stand released from reservation.

i. Respondent No. 1 was aware that the land acquisition proceedings had to be completed within twelve months from 02-01-2007 i.e., by 02-01-2008 failing which the property would stand de-reserved by operation of Section 49(7) of the MRTP Act.

j. On 29-12-2007, i.e., just three days before the expiry of the last date of acquiring the property i.e., 02-01-2008, the respondent No. 5 issued a letter to the respondent No. 7 to commence the land acquisition proceedings under Section 126 of the MRTP Act.

k. On 13-08-2014, erstwhile owner issued purchase notice under Section 127 of the MRTP Act to Respondent Nos. 1,3,4 and 6 requesting them to acquire their land.

l. Indisputably, till 2018 the respondent No. 3 did not make any application to acquire the property and no notification under Section 6 of the Land Acquisition Ac t, 1894 was published by the competent authority.

m. Indisputably, no amount towards compensation was deposited by the respondent No. 5 with any authority for the said property.

n. Thus, by operation of Section 49(7) of the MRTP Act reservation of the property lapsed on 02-01-2008 and the erstwhile owners were free to use the same as permissible in law.

o. On 09-04-2015, the erstwhile owners submitted an application addressed to the respondent No. 4 seeking permission to construct boundary wall surrounding the property with a view to prevent encroachment.

p. The respondent No. 4 vide letter dated 27-08-2015 declined to grant the permission to put up the wall on the ground that the property was reserved for respondent No. 5.

q. On 30-12-2015 by registered sale deed the erstwhile owners sold the property to the appellants herein.

r. On 16-03-2016 the appellants herein filed a writ petition seeking direction that either the respondent No. 5 shall deposit the amount towards compensation for the land reserved for it since 1993 or declare that the reservation had lapsed under Section 49(7) of the MRTP Act.

37. According to the learned counsel appearing for the appellants, in view of the aforesaid, the reservation lapsed even under Section 127 on 13-08-2015.

38. It is very unfortunate to note that although the land was reserved almost 33 years back for the benefit of Respondent No.5 yet the said respondent was unable to avail the benefit of the same.

39. It does not make any good sense to keep a plot reserved in a development plan for past 33 years. The Authority did not allow the original owners to use the land and are now not permitting even the purchasers i.e. the appellants – herein to utilize the land.

40. This Court in Chhabildas (supra) after explaining the provisions of Sections 49 and 127 of the MRT Act respectively thought fit to invoke Article 142 of the Constitution to do complete justice having regard to the long and inordinate delay in acquiring the land.

41. In the aforesaid context, we may refer to paras 25 to 31 of the Chhabildas (supra) as under:

> "25. The learned counsel appearing for the State has relied upon this Court's judgment in Prakash R. Gupta v. Lonavala Municipal Council and others, (2009) 1 SCC 514, wherein this Court held that the scheme contemplated by Section 49 is totally different from that of Section 127, for the reason that there is no period of 10 years in Section 49 as mentioned in Section 127.
>
> 26. This judgment does not carry the matter any further as it is clear that, once an application is made within the requisite period contained in Section 49(7), land acquisition must follow in terms of Section 49(1) to purchase the interest in the land, in accordance with the provisions of the MRTP Act, as indicated above.
>
> 27. This Court, in Hasmukhrai V. Mehta v. State of Maharashtra & Ors., (2015) 3 SCC 154, held that where an inordinately long delay takes place from the date on which the appropriate authority makes an application to acquire the land (in that case 20 years), the land in question stands released from reservation.
>
> 28. In the aforesaid judgment, the purchase notice under Section 49 of the Act was dated 17th August, 2000. The Director, Town Planning, wrote a letter to the Chief Officer of the Khopoli Municipal Council stating that proceedings for land acquisition for an Agricultural Produce Market Yard would be initiated within one year from 16th March, 2001. Consequently, the Khopoli Municipal Council wrote a letter on 23rd April, 2001 to the Agricultural Produce Market Committee to initiate acquisition proceedings. As nothing was done, the Appellant ran from pillar to post and ultimately filed a writ petition in February, 2004, complaining that the Respondents are neither acquiring the land belonging to the Appellant nor releasing the same from reservation for the Agricultural Produce Market Yard. The High Court

dismissed the aforesaid writ petition stating that as the provisions of Section 127 were not attracted, there could be no lapse. This Court, after referring to Sections 49 and 127 of the Act, held:

> "12. We think it pertinent to mention here that APMC, Respondent 5, even after service of notice, has not cared to contest this appeal. Also, we think it relevant to mention that till date no steps appear to have been taken for acquisition of the land in question or to release the same. The land of the appellant, in our opinion, cannot be held up, without any authority of law, as neither the same is purchased till date by the respondent authorities, nor acquired under any law, nor the appellant is being allowed to use the land for the last more than twenty years."

29. It thereafter referred to Vijayalakshmi v. Town Planning Member (2006) 8 SCC 502 and Girnar (supra) and then held:

> "15. In view of the principle of law laid down by this Court, as above, we are of the view that in the present case since neither have steps been taken by the authorities concerned for acquisition of the land, nor is the land of the appellant purchased under purchase notice, nor is he allowed to use the land for the last more than twenty years, the land will have to be released as the appellant cannot be deprived from utilising his property for an indefinite period.
>
> xxx xxx xxx
>
> 18. Accordingly, we allow the appeal and set aside the impugned order passed by the High Court. Since no steps appear to have been taken till date for the last more than twenty years either for acquisition or for purchase of the land under the MRTP Act, 1966 by the authorities concerned, as such, the land in question stands released from reservation under Section 127 of the MRTP Act."

30. The aforesaid judgment lays down that since more than 20 years had elapsed since the date of the purchase notice

under Section 49 on the facts of that case, the land will have to be released from acquisition. No doubt this Court held that over 20 years is an inordinately long period of delay, and therefore, lapsing has taken place under Section 127 of the MRTP Act. However, on the facts of that case, no purchase notice under Section 127 was issued after 10 years had elapsed from the date of publication of the requisite plan. This being the case, we read the judgment as having allowed a lapse to take place, in view of the inordinately long delay of over 20 years, by really doing complete justice on the facts of that case under Article 142 of the Constitution of India.

31. In the present case, 15 years have passed since the date of publication of the development plan, and over 10 years have passed since the date of the purchase notice issued under Section 49. Considering the fact that there has been no stay at any stage by any Court, it is clear that an inordinately long period of time has elapsed, both since the date of publication of the development plan, as well as the date of the purchase notice served under Section 49. No doubt, the letter of 26.9.2008 shows that an application was made within the requisite time period to acquire the aforesaid land. However, on the facts of this case, since after the aforesaid letter nothing has been done to acquire the appellant's property, we are of the view that the reservation contained in the development plan as well as acquisition proposal have lapsed. We make it clear that we hold this in order to do complete justice between the parties under Article 142 of the Constitution of India. However, in all future cases that may arise under the provisions of Section 49, the drill of Section 127 must be followed, i.e. that after 10 years have elapsed from the date of publication of the relevant plan, a second purchase notice must be served in accordance with the provisions of Section 127, in order that lapsing can take place under the aforesaid section. With these observations, the appeal is disposed of."

42. In the context of delay, we would also like to refer to the decision of this Court in the case of Bhavnagar Universit v. Palitana Sugar Mills Pvt. Ltd. and Others reported in AIR 23 SC 511 more particularly paras 27, 32 to 35 and 38 respectively as under:

"27. An owner of a property, subject to reasonable restrictions which may be imposed by the Legislature, is entitled to enjoy the property in any manner he likes. A right to use a property in a particular manner or in other words a restriction imposed on user thereof except in the mode and manner laid down under statute would not be presumed.

xxx xxx xxx

32. Subsection (2) of Section 20, however, carves out an exception to the exercise of powers by the State as regards acquisition of the land for the purpose of carrying out the development of the area in the manner provided for therein; a bare reading whereof leaves no manner of doubt that in the event the land referred to under subsection (1) of Section 20 thereof is not acquired or proceedings under the Land Acquisition Act are not commenced and further in the event an owner or a person interested in the land serves a notice in the manner specified therein, certain consequences ensue, namely, the designation of the land shall be deemed to have lapsed. A legal fiction, therefore, has been created in the said provision.

33. The purpose and object of creating a legal fiction in the statute is well known. When a legal fiction is created, it must be given its full effect. In East End Dwelling Co. Ltd. v. Finsbury Borough Council, [(1951) 2 All.E.R 587], Lord Asquith, J. stated the law in the following terms:"

If you are bidden to treat an imaginary state of affairs as real, you must surely, unless prohibited from doing so, also imagine as real the consequences and incidents which, if the putative state of affairs had in fact existed, must inevitably have flowed from or accompanied it. One of these in this case is emancipation from the 1939 level of rents. The statute says that you must imagine a certain state of affairs; it does not say that having done so, you must cause or permit your imagination to boggle when it comes to the inevitable corollaries of that state of affairs."

The said principle has been reiterated by this Court in M. Venugopal v. Divisional Manager, Life Insurance Corporation of India, Machilipatnam, A.P. & Anr. [(1994) 2

SCC 323]. See also Indian Oil Corporation Limited v. Chief Inspector of Factories & Ors. etc., [(1998) 5 SCC 738], Voltas Limited, Bombay v. Union of India & Ors.,[(1995) Supp. 2 SCC 498], Harish Tandon v. Addl. District Magistrate, Allahabad, U.P. & Ors. [(1995) 1 SCC 537] and G. Viswanathan etc. v. Hon'ble Speaker, Tamil Nadu Legislative Assembly, Madras & Anr. [(1996) 2 SCC 353].

34. The relevant provisions of the Act are absolutely clear, unambiguous and implicit. A plain meaning of the said provisions, in our considered view, would lead to only one conclusion, namely, that in the event a notice is issued by the owner of the land or other person interested therein asking the authority to acquire the land upon expiry of the period specified therein viz. ten years from the date of issuance of final development plan and in the event pursuant to or in furtherance thereof no action for acquisition thereof is taken, the designation shall lapse.

35. This Court in Municipal Corporation of Greater Bombay's case (supra), in no uncertain terms while construing the provisions of Section 127 of the Maharashtra Regional and Town Planning Act, 1966 held the period of ten years as reasonable in the following words:

> "While the contention of learned counsel appearing for the appellant that the words 'six months from the date of service of such notice' in Section 127 of the Act were not susceptible of a literal construction, must be accepted, it must be borne in mind that the period of six months provided by Section 127 upon the expiry of which the reservation of the land under a Development Plan lapses, is a valuable safeguard to the citizen against arbitrary and irrational executive action. Section 127 of the Act is a fetter upon the power of eminent domain. By enacting Section 127 the legislature has struck a balance between the competing claims of the interests of the general public as regards the rights of an individual."

It was observed that:

> "The Act lays down the principles of fixation by providing first, by the proviso to Section 126(2) that no such

declaration under subsection (2) shall be made after the expiry of three years from the date of publication of the draft regional plan, development plan or any other plan, secondly, by enacting subsection (4) of Section 126 that if a declaration is not made within the period referred to in subsection (2), the State Government may make a fresh declaration but, in that event, the market value of the land shall be the market value at the date of the declaration under Section 6 and not the market value at the date of the notification under Section 4, and thirdly, by Section 127 that if any land reserved, allotted or designated for any purpose in any development plan is not acquired by agreement within 10 years from the date on which a final regional plan or development plan comes into force or if proceedings for the acquisition of such land under the Land Acquisition Act are not commenced within such period, such land shall be deemed to be released from such reservation, allotment or designation and become available to the owner for the purpose of development on the failure of the Appropriate Authority to initiate any steps for its acquisition within a period of six months from the date of service of a notice by the owner or any person interested in the land. It cannot be doubted that a period of 10 years is long enough., The Development or the Planning Authority must take recourse to acquisition with some amount of promptitude in order that the compensation paid to the expropriated owner bears a just relation to the real value of the land as otherwise, the compensation paid for the acquisition would be wholly illusory. Such fetter on statutory powers is in the interest of the general public and the conditions subject to which they can be exercised must be strictly followed."

It is true that Section 21 of the Act imposes a statutory obligation on the part of the State and the appropriate authorities to revise the development plan and for the said purpose Section 9 to 20 'so far as may be' would be applicable thereto, but thereby the rights of the owners in terms of subsection (2) of Section 20 are not taken away.

xxx xxx xxx

> 38. Section 21 does not envisage that despite the fact that in terms of subsection (2) of Section 20, the designation of land shall lapse, the same, only because a draft revised plan is made, would automatically give rise to revival thereof. Section 20 does not manifest a legislative intent to curtail or take away the right acquired by a landowner under Section 22 of getting the land defreezed. In the event the submission of the learned Solicitor General is accepted the same would completely render the provisions of Section 20(2) otiose and redundant."

43. In the last, we may refer to the decision of this Court in the case of Chairman, Indore Vikas Pradhikaran v. Pure Industrial Coke and Chemicals Ltd. reported in (2007) 8 SCC 705 more particularly paras 53, 54 and 55 respectively therein:

> "53. The right of property is now considered to be not only a constitutional right but also a human right.
>
> 54. The Declaration of Human Rights (1789) enunciates under Article 17
>
> > "since the right to property is inviolable and sacred, no one may be deprived thereof, unless public necessity, legally ascertained, obviously requires it and just and prior indemnity has been paid".
>
> Further under Article 217 (IIII) of 10th December, 1948, adopted in the General Assembly Resolution it is stated that : (i) Everyone has the right to own property alone as well as in association with others. (ii) No one shall be arbitrarily deprived of his property.
>
> 55. Earlier human rights were existed to the claim of individuals right to health, right to livelihood, right to shelter and employment etc. but now human rights have started gaining a multifacet approach. Now property rights are also incorporated within the definition of human rights. Even claim of adverse possession has to be read in consonance with human rights. As President John Adams (17971801)put it,:
>
> "Property is surely a right of mankind as real as liberty."
>
> Adding,

> "The moment the idea is admitted into society that property is not as sacred as the laws of God, and that there is not a force of law and public justice to protect it, anarchy and tyranny commence"."

44. The facts before us are very clear. We once again reiterate them before we close this matter:

    (i) On 13-08-2014, the erstwhile owners issued purchase notice under Section 127 of the MRTP Act.

    (ii) Development Plan came into effect on 25-02-1993.

    (iii) The land had to be acquired within ten years of 25-02-1993 in view of Section 127 of the Act which indisputably was not done.

    (iv) After the issuance of notice under Section 127 of the MRTP Act on 13-08-2014, the appropriate authority could have acquired the land within twelve months, i.e., on/or before 13-08-2015. The same was not done. This puts an end to the entire debate.

    (v) The reservation could be said to have lapsed even under Section 127 on 13-08-2015.

45. In such circumstances, when the erstwhile owners sold the land to the appellants herein on 30-12-2015, there was no reservation.

46. This Court in the case of Prafulla C. Dave and Ors. v. Municipal Commissioner and Ors. reported in (2015) 11 SCC 90 held thus:

> "21. Under Section 127 of the M.R.T.P. Act, reservation, allotment or designation of any land for any public purpose specified in a development plan is deemed to have lapsed and such land is deemed to be released only after notice on the appropriate authority is served calling upon such authority either to acquire the land by agreement or to initiate proceedings for acquisition of the land either under the M.R.T.P. Act or under the Land Acquisition Act, 1894 and the said authority fails to comply with the demand raised thereunder. Such notice can be issued by the owner or any person interested in the land only if the land is not acquired or proceeding for acquisition are not initiated within 10 years from the date on which the final development plan had come into force. After service of notice by the land

> owner or the person interested, a mandatory period of six months has to be lapsed within which time the authority can still initiate the necessary action. Section 127 of the M.R.T.P. Act or any other provision of the M.R.T.P. Act does not provide for automatic lapsing of the acquisition, reservation or designation of the land included in any development plan on the expiry of 10 years. On the contrary, upon expiry of the said period of 10 years, the land owner or the person interested is mandated by the statute to take certain positive steps i.e. to issue/serve a notice and there must occur a corresponding failure on the part of the authority to take requisite steps as demanded therein in order to bring into effect the consequences contemplated by Section 127 of the M.R.T.P. Act……"
>
> (Emphasis supplied)

47. Thus, the principles underlying in Section 127 of the MRTP Act is either to utilize the land for the purpose for which it is reserved in the timeline given or let the owner utilize the land for the purpose as permissible under the town planning scheme. The reservation shall be deemed to have lapsed if no steps are taken for acquisition of the said land within the prescribed period. Indisputably, in the present case, the respondents have not taken any steps to issue notification after receipt of the notice.

48. In Kolhapur Municipal corporation and Others v. Vasant Mahadev Patil (dead), through LRs & Ors. reported in (2022) 5 SCC 758, this Court held that when by operation of law the reservation is deemed to have lapsed under Section 127(1) of the MRTP Act, the reservation lapses for all purposes and for all times to come. In the said decision, this Court was further pleased to observe that on the deemed lapse of such reservation under Section 127(1) of the said Act no writ of mandamus can be issued by the High Court to direct acquisition of that land and pay compensation to the landowners as on the lapse of such reservation, the land becomes free and the landowners can use the land as if there was no reservation.

49. This Court in Municipal Corpn., Greater Mumbai v. Hiraman Sitaram Deorukhar reported in (2019) 14 SCC 411 was examining the reservation of land for a garden in a Development Plan in the year

1966 but the same was not acquired even after purchase notice was served by the landowner. However, relying upon the judgment of this Court reported as Bangalore Medical Trust v. B.S. Muddappa reported in (1991) 4 SCC 54 and some other judgments, it was held that the land reserved for public park cannot be permitted to be converted for other public purposes.

50. The landowner cannot be deprived of the use of the land for years together. Once an embargo has been put on a landowner not to use the land in a particular manner, the said restriction cannot be kept open-ended for indefinite period. The statute has provided a period of ten years to acquire the land under Section 126 of the Act. Additional one year is granted to the landowner to serve a notice for acquisition prior to the amendment by Maharashtra Act 42 of 2015. Such timeline is sacrosanct and has to be adhered to by the State or by the authorities under the State.

51. In the result, the appeals are allowed and the impugned order passed by the High Court is set aside. It is declared that the reservation of the plot in question could be said to have lapsed by efflux of time in view of the provisions under Sections 126 and 127 of the MRTP Act respectively.

52. Having regard to the gross delay of almost thirty years even without the aid of Section 127 of the MRTP Act, we would have declared the reservation to have lapsed in exercise of our jurisdiction under Article 142 of the Constitution to do complete justice in the matter.

53. Pending applications if any shall stand disposed of.

Result of the case: Appeals allowed.

†*Headnotes prepared by:* Mukund P Unny, Hony. Associate Editor
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