

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.13965 OF 2024

1. Yakub Salebhai Contractor (Deceased)
2. Zehra Yakub Contractor (Deceased)

Both through their legal heirs

- 2.1. Mazahir Alias Al Azhar Yakub

Contractor Age: 67 years,

Occupation: Business

- 2.2. Habib Yakub Contractor

Age: 51 years, Occupation: Business

- 2.3. Nasreen Yakub Contractor

Age-57 years, Occupation-Business

All 3 having registered address

at Sr. No. 20, Plot No. 15, Soeb Villa,

D. T. Sahani Road,

Lonavala, District-Pune, 410401

- 2.4. Duriya Shabbir Presswala

Age-65 years, Occupation - Business,

having Registered Address-11/1101,

Hill View Apartment, Belvedre

Hill Road, Mazgaon, Mumbai 400 010.

3. Mazahir Alias Al Azhar Yakub Contractor

Age: 67 years, Occupation: Business

4. Hasina Al Azhar Yakub Contractor

Age: 65, Occupation: Housewife

Both having Registered Address - Sr. No. 20,

Plot No. 15, Soeb Villa, D. T. Sahani Road,

Lonavala, District - Pune 410401

....Petitioners

Versus

1. State of Maharashtra

Through its Urban Development

Department, Mantralaya, Mumbai

2. Director of Town Planning,

State of Maharashtra Office

at the Commissioner of Pune, Pune

3. Lonavala Municipal Council,

Through its Chief Officer,

Lonavala Tal Maval, District: Pune

....Respondents

- Mr. Ashutosh Kulkarni a/w Mr. Irfan Unwala i/b. Ms. Shaheen S. Kapadia, Advocate for the Petitioners.
- Mr. O.A. Chandurkar, Addl. GP, a/w Mr. S.P. Kamble, AGP, for the Respondent-State.
- Ms. Shakuntala Wadekar, Advocate for Respondent No.3.

CORAM : RAVINDRA V. GHUGE &
ABHAY J. MANTRI, JJ.

RESERVED ON : 9th FEBRUARY, 2026
PRONOUNCED ON : 17th FEBRUARY, 2026

Judgment :- (Per :- Abhay J. Mantri, J.) :-

1. By order dated 10th March, 2025, this Writ Petition is
'Admitted'.

2. Heard finally by the consent of the learned Advocates for
the respective parties.

3. The Petitioners have put forth prayer clauses (b) and (c),
as under :

“(b) That this Hon'ble Court be pleased to issue an appropriate writ, order, and or direction to declare that the reservation, designation or allotment provided under the development plan revised development plan of the Respondent No. 3 in respect of property lying, being and situated at Lonavala within Registration Sub-District of Maval, Dist: Pune and within the local limits of Lonavala Municipal Council in its ward “A” at Bhangarwadi and known as Nangargaon in the revenue record bearing part of Survey No. 55 admeasuring 88.29 ares within the jurisdiction of Lonavala Municipal Council is lapsed and said reserved land is available to the Petitioners for the purpose of development or otherwise, as is permissible;

(c) That this Hon'ble Court be pleased to issue an appropriate writ, order, and or direction to declare that the said reserved land in respect of property lying, being and situated at Lonavala within Registration Sub-District of Maval, Dist: Pune and within the local limits of Lonavala Municipal Council in its ward “A” at Bhangarwadi and known as

Nangargaon in the revenue record bearing part of Survey No. 55 admeasuring 88.29 ares within the jurisdiction of Lonavala Municipal Council has been de-reserved under the provisions of Maharashtra Regional Town Planning Act as per the purchase notice dated 02.08.2021 for want of valid steps by Lonavala Municipal Council”

4. The above prayer clauses indicate that the Petitioners have invoked the deeming fiction of lapsing of reservation under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as “*the MRTP Act*”), since the Respondents have taken no steps for the acquisition of the land in question.

5. The material facts, dates, and sequence of events necessary to determine the controversy between the parties are as follows:

(a) Initially, Shri Narayan Damodar Bhonde and five others were the owners of the property bearing part of Survey No. 55, admeasuring 88.29 R, situated at Nangargaon, within the local limits of the Lonavala Municipal Council (for short, “*Council*”), Ward ‘A’, Bhangarwadi (for short, “*the land*”). Who, by registered Sale Deed No. 145, dated 4th March, 1991, sold the land to the Petitioners. Pursuant to the said sale deed, the Petitioners claim ownership of the land.

(b) The Respondent No. 1-State sanctioned and published the Development Plan (for short, "*the DP Plan*") vide Government Resolution No. TPS/1876/9/4D, dated 28th February, 1978, and the same came into force on 1st March, 1978.

(c) Respondent No. 3- Council failed to take steps for the acquisition or development of the land up to 1st October, 1998.

(d) On 2nd October, 1998, the Petitioners issued a purchase notice under Section 127 of the MRTP Act to Respondent No. 3, which was neither complied with nor any steps were taken to acquire or develop the land.

(e) Thereafter, the said DP Plan was partially revised and sanctioned on 29th June, 2005. The partially revised DP Plan came into force on 27th August 2005.

(f) Again, on 18th August, 2006, Respondent No. 3 sanctioned and published the remaining part of the DP Plan. The

said DP Plan came into force on 1st November, 2006.

(g) Until 31st October, 2016, i.e. over a period of 10 years, Respondent No. 3 had neither proceeded with the acquisition of the land nor carried out any development of the land for the purpose for which it was reserved.

(h) Since no land was acquired, on 2nd August, 2021, the Petitioners issued a second purchase notice under Section 127 of the MRTP Act to Respondent No. 3-Council.

(i) Despite receipt of the said notice, Respondent No. 3 failed to comply with the notice, neither acquired nor developed the said land pursuant thereto until 1st August, 2023.

(j) It is evident from the record that Respondent No. 3-Council, i.e. the planning authority, did not take any steps to acquire or develop the land since 1978. Consequently, the Petitioners filed this Writ Petition on 23rd September, 2024.

6. Having heard the rival contentions of the parties and upon examining the record, including the affidavit-in-reply filed by Respondent No. 3 and the judgments relied upon by the Petitioners, it appears that the controversy between the Petitioners and the Council falls in a narrow compass, i.e. the Petitioners have issued a purchase notice under Section 127 of the MRTP Act, which deals with lapsing of reservations of the land. Thus, we would like to reproduce the relevant provision of the MRTP Act.

7. For context, Chapter VII of the MRTP Act deals with “*Land Acquisition*”. **Section 125** provides for the “*compulsory acquisition of land needed for the purposes of the Regional Plan, Development Plan, or Town Planning Scheme*”. **Section 126** deals with the “*acquisition of land required for public purposes specified in such plans*”. **Section 127**, however, deals with the “*lapsing of reservations*” and prescribes the procedure for issuance of a purchase notice in that regard. Since Section 127 is relevant for deciding the issue that arises in the present Writ Petition, the same is reproduced hereunder:

“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, along with 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 twenty-four 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.

(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.”

8. A plain reading of Section 127 of the MRTP Act indicates that *after expiry of ten years from the date of reservation*, when no steps have been taken to acquire the land, the owner or interested person gets the right to issue a purchase notice under Section 127 of the MRTP Act. The reservation cannot lapse automatically after ten years if a purchase notice is not issued. The reservation lapses only if, after service of such notice, the Planning Authority fails to take steps towards acquisition of the land *within the twenty-four months prescribed under the statute*. Thus, the right contemplated under

Section 127 arises upon issuance of the purchase notice after ten years and not merely by efflux of time.

9. The learned Advocate for the Council has only raised the grievance that the Petitioners did not submit the documents as required under Section 127 of the MRTP Act; in particular, the purchase notice issued by the Petitioners was allegedly incomplete, as no documents were furnished to substantiate their title to the land.

10. Secondly, it is contended that the notice did not contain a detailed description of the property, nor did it enclose the measurement sheet of the land in question to indicate the extent of the land affected by the DP reservation. In view of the above, it is argued that the Petitioners are not entitled to relief under Section 127 of the MRTP Act, and, therefore, it is urged that the Writ Petition be dismissed.

11. *Per contra*, the learned Advocate for the Petitioners submits that, since 1978, the Petitioners' land has been shown in the DP Plan as reserved for "*Housing for dishoused*", i.e., '*homes for*

homeless people'. The State/planning authorities neither acquired the land nor took any steps despite receipt of the purchase notice. Therefore, in terms of Section 127 of the MRTP Act, the reservation is deemed to have lapsed. It is further canvassed that the planning authority cannot raise a grievance that the Purchase Notice was defective, on the ground that the title documents did not accompany it or that it did not provide a detailed description of the property, when it failed to take steps to acquire the property within the prescribed period, as contemplated by the MRTP Act. Moreover, the omission of details regarding the second revised DP Plan does not affect the Petitioners' claim, as Respondent No. 3 does not dispute the publication of the second revised sanctioned DP Plan, under which a portion of Survey No. 55 was reserved. On these grounds, the Petitioners contend that they are entitled to the reliefs as prayed for.

12. To buttress these submissions, the learned Advocate for the Petitioners has placed reliance on the following judgments:

(i) *Jayantilal Himmatlal Oswal V/s. The State of Maharashtra & Ors., (Writ Petition No.205 of 2021), Decision dated 09.04.2021*

- (ii) *Shripad @ Pramod N. Bhonde & Ors. V/s. The State of Maharashtra & Ors., (Writ Petition No.12309 of 2022), Decision dated 02.03.2023;*
- (iii) *Salim Abdul Subhan Sahikh V/s. State of Maharashtra & Ors., (Writ Petition No.4515 of 2022);*
- (iv) *Dr. Dattatray Baburao Kungulwar & Ors. V/s. The State of Maharashtra & Anr. (Writ Petition No.6562 of 2024); and*
- (v) *Anant Keshav Rajegaonkar & Anr. V/s. The State of Maharashtra & Ors. (Writ Petition No.15701 of 2022)*

13. In view of the afore-cited judgments, he propounded that these decisions fully cover the issue in the case at hand, and as such, urges that the Petition be allowed.

14. Before dealing with the rival submissions, it would be appropriate to set out the undisputed facts of the case as follows.

(a) In 1978, Respondent No. 3- Council prepared and published the Development Plan, which was sanctioned by Respondent No. 1 for the purpose of establishing “*Housing for dishoused*,” and came into force on 1st March 1978. It is not in dispute that the DP Plan was subsequently revised on 29th June 2005 and on 18th August 2006, with the revised plans coming into force on 27th August 2005 and 1st November 2006, respectively.

(b) It is not in dispute that a certain portion of ‘*the land*’ is reserved under the 1978 DP Plan, and the revised DP Plan of 2005–06. It is pertinent to note that Respondent No.3, the planning authority, does not dispute the receipt of the purchase notice under Section 127 of the MRTP Act, which was served by the Petitioner on it on 2nd August 2021, i.e., after the lapse of ten years from the sanction and publication of the second revised DP Plan.

15. In *Jayantilal Himmatlal Oswal* (supra), the Petitioners therein had sought a similar relief in respect of the same DP plans as claimed in the case at hand, wherein this Court examined the DP Plan of 1978 as well as the revised DP Plan of 2005 and observed that, “*over a period of 40 years (from 1978 to 2018), Respondent No. 3-Council failed to acquire the land that had been reserved under the said DP plans. Therefore, upon consideration of the purchase notice, the Court held that Respondent No. 3 did not take any steps to acquire or develop the land within two years from the receipt of the notice, resulting in the lapse of the reservation.*”

16. In the present case, Respondent No. 3 does not dispute the receipt of the purchase notice dated 2nd August 2021, and two years have elapsed on 1st August 2023. Respondent No. 3 has failed to take any steps to acquire or develop the land within the prescribed period; as such, the observations made in the afore-cited decision are squarely applicable to the case at hand.

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.

22. In terms of Section 127 of the MRTP Act, the owner or person interested in the land is entitled to claim that the reservation shall be deemed to have lapsed where the Authority has failed to initiate action to acquire the land within the prescribed period. It is also to be noted that the Petitioners have produced a photostat copy of the registered Sale Deed dated 4th March, 1991 (page Nos. 26 to 57), which clearly demonstrates that, by virtue of the said Sale Deed, they acquired title and interest in the land in question.

23. It is pertinent to note that in *Nirmiti Developers through its Partners & Anr. V/s. State of Maharashtra & Ors.*, 2025 SCC OnLine SC 438, the Hon'ble Supreme Court, after dealing with Sections 49, 126, and 127 of the MRTP Act, considering the mandate in *Girnar Traders V/s. State of Maharashtra reported in (2007) 7 SCC 555* in

Paragraphs 28 to 32, and the position of law in various judgments of the Hon'ble Apex Court, has laid down the principles underlying Section 127 of the MRTP Act in para 34, 47 and 50. We would like to reproduce para 28 to 32 and 34, 47 and 50 as under :

“28. *In Girnar Traders v. State of Maharashtra, (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 the 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 the 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. The 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 the 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., 1988 Supp SCC 55, and was of the 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 the acquisition of the owner's property. The intent and purpose of the provisions of Sections 126 and 127 have 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 the dereservation of the land. Not only that, it gives a further time for either to acquire the land or to take steps for the 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 in 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 a mandate is given in a section requiring compliance within a particular period, strict compliance is required therewith, as the 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 a 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 the acquisition of the same.

56. *The underlying principle* 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 envisaged in Section 127 of the MRTTP 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 steps taken under the section within the time stipulated should be towards the acquisition of land. It is a step of acquisition of land and not a step for the 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 MRTTP Act by merely moving an application requesting the Government to acquire the land, which the 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 the acquisition of the land. On the construction of Section 126, which provides for the acquisition of land under the MRTTP Act, it is apparent that the steps for the acquisition of the land would be the 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 the acquisition of the land would not be a step for the 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 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 61*)

“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 the 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 in 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).”

24. Considering the law laid down in *Girnar Traders* (supra) and other judgments of the Hon’ble Supreme Court, the Hon’ble Supreme Court in Paragraphs 34, 47 and 50 concludes as follows :

“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 (now two years as amended) from the date of service of such notice, or else the land acquisition proceedings would lapse.”

*“47. Thus, the principles underlying Section 127 of the MRTP Act are either to utilise the land for the purpose for which it is reserved in the timeline given or to let the owner utilise 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 the acquisition of the said land within the prescribed period.** Indisputably, in the present case, the respondents have not taken any steps to issue a notification after receipt of the notice.”*

“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 (now 2 years as amended) 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.

25. We have also perused the judgments relied upon by the petitioners. It is a trite law that, pursuant to a notice under Section 127 of the MRTP Act, the reservation would lapse upon failure to take effective steps to acquire the land, as the acquisition would not be revived merely by passing a resolution. In the absence of the steps taken by the Planning Authority, the rights accrued in favour

of the owners or persons interested in the land entitle them to issue a purchase notice for the release of their land.

26. To summarise, it is evident that despite the receipt of the purchase notice under Section 127 of the MRTP Act, Respondent No. 3-Council failed to comply with the notice and did not take the necessary steps to acquire the land within the prescribed period of twenty-four months. As a consequence, as per the mandate in Section 127 of the MRTP Act, the reservation shall be deemed to have lapsed by operation of law, and the land shall be deemed to be released from such reservation. Accordingly, the Petitioners are entitled to the relief as sought.

27. In view of the foregoing discussion, and having regard to the provisions of Section 127 of the MRTP Act and the mandate in the judgments in *Nirmiti*, *Girnar* (*supra*) and other relied decisions, we are of the opinion that, despite service of the purchase notice, Respondent No. 3 has failed to comply with it in accordance with Sections 126 and 127 of the MRTP Act. Consequently, the

Petitioners are entitled to a declaration that the reservation on the land has lapsed under Section 127 of the MRTP Act.

28. As a result, the *Writ Petition is allowed in terms of prayer clauses (b) and (c)*, as reproduced above, with the following directions :

(a) Respondent No.3-Counsel shall issue a communication to Respondent No.1-State within 30 days from the receipt of a copy of this order.

(b) The State Government shall issue a notification under Section 127(2) of the MRTP Act within 60 days thereafter.

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

(ABHAY J. MANTRI, J.)

(RAVINDRA V. GHUGE, J.)