



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

WRIT PETITION NO.11182 OF 2023

- | | | | |
|----|---------------------------------|---|----------------|
| 1. | Shakuntala Ranganath Lohapatre |] | |
| 2. | Dinesh Ranganath Lohapatre |] | |
| | Both residing at 268, Shukrawar |] | |
| | Peth, Pune-411 002. |] | ...Petitioners |

V/s.

- | | | | |
|----|------------------------------------|---|----------------|
| 1. | Pune Municipal Corporation, |] | |
| | Shivaji Nagar, Pune-411 005. |] | |
| 2. | Commissioner, Pune Municipal |] | |
| | Corporation, Shivaji Nagar, |] | |
| | Pune-411 005. |] | |
| 3. | Executive Engineer, TDR, |] | |
| | Pune Municipal Corporation, |] | |
| | Shivaji Nagar, Pune-411 005. |] | |
| 4. | Sub-Engineer, Office of Property |] | |
| | Management, Pune Municipal |] | |
| | Corporation, Shivaji Nagar, |] | |
| | Pune-411 005. |] | |
| 5. | Sub-Engineer, Construction |] | |
| | Development Department Zone-2 |] | |
| | Swatantryaveer Sawarkar Udyog |] | |
| | Bhavan, Pune Municipal Corporation |] | |
| | Pune-411 005. |] | |
| 6. | State of Maharashtra, Land and |] | |
| | Revenue Department, Mantralay, |] | |
| | Mumbai. |] | ...Respondents |

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Ms. Aparna Devkar for the Petitioners.
Ms. Manisha Jagtap for Respondent Nos.1 to 5.
Mr. A.A. Alaspurkar, AGP for Respondent No.6-State.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.
RESERVED ON : 24th February, 2025.
PRONOUNCED ON : 5th March, 2025.**

JUDGMENT (Per Kamal Khata, J) :

1) By this Petition under Article 226 of the Constitution of India, the Petitioners seek a Writ of Certiorari to declare that the reservation of Playground bearing No. PG-32 shown in respect of the Petitioner's land located at Village Ambegaon, Budruk, Taluka-Haveli, District-Pune bearing Survey No.34/3/5/2 admeasuring 00H-05R has lapsed, as no steps to acquire the same have been taken by the Pune Municipal Corporation (PMC) for a period of more than 10 years since the date of the Notification dated 2nd/5th March, 2012 and even six months after the purchase notice dated 2nd November, 2022 as per the mandate of Section 127 of the Maharashtra Regional and Town Planning Act, 1966 ('MRTP'). Additionally, it seeks a Writ of Mandamus directing the Respondents to notify and declare that the subject land is available to the Petitioner for development.

2) Ms. Devkar, learned Advocate for the Petitioner states that the purchase notice contemplated under section 127(1) was issued on 2nd November 2022. The six months mandated period lapsed on 2nd May, 2023 and this Petition was filed on 5th July, 2023. She argues that, in this case, the period of six months as per the old Section 127(1) of MRTP Act would apply since reservation was

effected/sanctioned on 2nd March 2012. In support of her contention, she relied on the judgment of this Court in the case of *Shri Shankar Newandram Budhwani V/s. The Chief Officer and Ors. reported in 2025:BHC-AS:4999-DB*. She therefore submitted that this Petition be made absolute as prayed.

3) *Per Contra* Ms. Jagtap, Advocate for Respondent Nos.1 to 5 submitted that the Petition is premature. She contended that after receiving the notice dated 2nd November, 2022 the Corporation has passed a resolution bearing No.125 dated 30th September, 2024 and has thereby initiated the process of acquisition of the property within the statutory period of limitation. Following the Resolution of Corporation, the Department of Land Acquisition of PMC had sent proposal dated 30th January 2025 to the District Collector to acquire the said property. She argued that the Petition was premature as the period of 24 months after purchase notice would lapse only on 2nd November 2024. She therefore submitted that the Petition is devoid of any merit and ought to be dismissed.

4) Having heard both Advocates we perused the relevant sections and the entire proceedings produced before us.

5) A bare reading of the Section 127 of the MRTP Act reveals that the period “twelve months” was substituted by “twenty-four months” by Notification No. Mah. 42 of 2015, s.7, with effect from 29th August 2015.

6) We are unable to accept the Ms Devkar's argument that since the draft Development Plan that was partly sanctioned on 2nd/5th March 2012, the provisions of old section would apply and thus the period of six months as was then applicable would apply. Her reliance on the Notification dated 2nd March, 2012 in support of her contention is misplaced because the Act was amended with effect from 29th August, 2015 increasing the period from 6 months to 12 months and then to 24 months.

7) In our view once the Act is amended, reliance on a Notification prior to the amendment cannot be considered. Consequently, the amended period prescribed on the date of issuance of notice i.e. on 2nd November 2022, which is "24 months" as stated in Section 127 (1) of the MRTP Act, will apply and not the date on which the land was reserved by Notification dated 5th March, 2012. The reliance on the judgment of this Court in the case of *Shri Shankar Newandram Budhwani* (supra) as well as the Notification of 2nd March 2012 is both misplaced and misconstrued and thus rejected.

8) Thus, in our view the Petition is premature and is accordingly dismissed.

(KAMAL KHATA, J)

(A. S. GADKARI, J.)