SUPREME COURT OF INDIA

State of Maharashtra

Vs.

Bhakti Vedanta Book Trust

C.A.No.2906 of 2013

(G.S.Singhvi and H.L. Gokhale JJ.)

04.04.2013

JUDGMENT

G. S. SINGHVI, J.

1. Leave granted.

2. Respondent No.1 is the owner of the land measuring 5300 sq. mtrs. comprised in Survey No.72, Penkarpada, Mira Road, within the municipal limits of Mira Bhayandar Municipal Corporation (hereinafter referred to as, 'the Corporation'). In the Development plan prepared under the Maharashtra Regional and Town Planning Act, 1966 (for short, 'the 1966 Act'), which was sanctioned on 14.5.1997 and was enforced on 15.7.1997, a portion of the land belonging to respondent No.1 (2500 sq. mtrs.) was shown as reserved for extension of Royal College of Arts, Science and Commerce run by the Royal Society of Bombay (for short, 'the Society').

3. In December, 2005 the Corporation made an application to the District Collector for initiation of the acquisition proceedings. The latter asked the Corporation to submit detailed proposal for facilitating the acquisition. Thereupon, the Competent Authority prepared a detailed plan, which was submitted to the Collector on 26.7.2006.

4. In the meanwhile, the Society filed Writ Petition No.4341/2005 for issue of a direction to the State Government and the Corporation to expedite the acquisition proceedings. The Division Bench of the High Court disposed of the writ petition vide order dated 16.2.2006, the relevant portion of which is extracted below:

> "From the affidavit filed by Sanjay Adhav, Special Land Acquisition Officer, the Learned G.P. points out that the Municipal Corporation has already forwarded the necessary documents to the Collector in the prescribed form. Considering that, the Special Land Acquisition Officer to pass an award within six months. It is further made clear that on the Special Land Acquisition Officer calling on the petitioners to deposit the compensation as computed by him, the same would be deposited by the petitioners within four weeks of such demand. It is only thereupon that the Special Land Acquisition Officer to proceed to pass an award and, thereafter, to take steps to hand over possession within one month after the award is passed. Rule made absolute accordingly."

5. Since the Special Land Acquisition Officer did not take steps in furtherance of the directions contained in the aforesaid order, respondent No.1 issued purchase notice dated 25.7.2007 under Section 127 of the 1966 Act, which was duly served upon the Corporation. After one year, respondent No.1 submitted plan dated 28.7.2008 for construction of a library building on the land owned by it. The same was rejected by the Competent Authority vide order dated 29.9.2008 on the ground that the land was reserved for the college and the acquisition proceedings had already been initiated.

6. Respondent No.1 challenged the rejection of its plan in Writ Petition No.36/2009. The pleaded case of respondent No.1 was that reservation of the land had lapsed and the reason assigned by the Competent Authority for rejecting the building plan was legally untenable. In paragraphs 11 to 16 and 21 to 26 of the writ petition, respondent No.1 made the following averments:

> "11. By their letter dated 28th April, 2006, the petitioners forwarded a copy of the aforesaid order of this Hon'ble Court dated 16th February, 2006 to the respondent No.1 and inter alia, requested it to demarcate the land area admeasuring 0.25 hectors to enable the petitioners to comply with the aforesaid order of this Hon'ble Court. Hereto annexed and marked Exhibit C is a copy of the said letter dated 26th April, 2006.
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> 12. The petitioners by their further letter dated 6th May, 2006 inter alia, requested the respondent No.1 to expedite the process of demarcation and intimate in writing to enable the petitioners to comply with the aforesaid orders of this Hon'ble Court within the stipulated time. Hereto annexed and marked as Exhibit D is the copy of the said letter dated 6th May, 2006.

13. By the letter dated May 31, 2006, the Advocates for the petitioners, after setting out the relevant fact inter alia requested the respondent No.2, to intimate the petitioners at the earliest the land demarcated and/or reserved for extension of Royal College failing which the petitioners will not be in a position to comply with the aforesaid order of this Hon'ble Court. Hereto annexed and marked as Exhibit E is a copy of the said letter dated May 31, 2006.

14. The Advocates for the said Royal Society of Bombay, by their letter dated 27th Jun3, 2006, inter alia called upon the petitioners to remove the illegal structures purported to be standing on the said land. Hereto annexed and marked as Exhibit F is a copy of the said letter dated 27th June, 2006.

15. The advocates for the petitioners by their letter dated June 29, 2006 replied to the aforesaid letter dated 27th June, 2006 of the Advocates for the said Royal Society. By the said letter, the advocates for the petitioners, after setting out the relevant fact, inter alia informed the Advocates for the said Royal Society, that in the absence of demarcation of land to be allotted to the said Royal Society by the respondent No.1, the petitioners are not in a position to comply with the aforesaid order of this Hon'ble Court. Hereto annexed and marked as Exhibit G is the copy of the said letter dated June 29, 2006.

16. By a letter dated 26th June, 2006 the respondent No.1 after setting out some of the facts, inter alia, requested the Collector of Thane, Thane to transfer the said property inferred to therein to the municipal Corporation as early as possible. Hereto annexed and marked Exhibit H is a copy of the said letter dated 28th June, 2008 in English translation along with its original Marathi copy.

21. It can be seen from the facts of the case that the Special Land Acquisition Officer did not comply with the order of this Hon'ble Court of making the award within six months.

22. In the circumstances aforesaid, the petitioners aforesaid a purchase notice dated 25th July, 2007 under Section 127 of the Maharashtra Regional and Town Planning Act to the respondent No.1 requiring the respondent No.1 to take steps for acquisition within six months from the receipt of the said purchase notice, in accordance with the Act failing which allow the

petitioners to develop the said land for the permissible user. This said purchase notice was received by the respondent No.1 on the same day. Hereto annexed and marked as Exhibit J is a copy of the said purchase notice dated 25th July, 2007.

23. By a letter dated 18tn August, 2007, the respondent No.1 informed the petitioners that on 26th July, 2006, the respondent No.1 has submitted a proposal for land acquisition in respect of the petitioners land and hence rejected the petitioners said purchase notice. Hereto annexed and marked as Exhibit K is a copy of the said letter dated 18th August, 2007 in English translation along with its original Marathi copy together with said copy of the said letter dated 26th July, 2006 in English translation and original Marathi copy. No steps are taken to purchase the said portion of land within 6 months in terms of the notice dated 25th July, 2007.

24. The petitioners by their Architects letter dated 28tn July, 2006, submitted to the respondent No.2 on 2nd August, 2008 inter alia submitted four sets of proposed plan of the property bearing Survey NO.237 p. of village Penkarpada, District Thane along with necessary documents for the proposed Library Building and requested the respondent No.2 to approve the plan at the earliest. Hereto annexed and marked as Exhibit L is a copy of the said letter dated 28th July, 2008.

25. On behalf of the respondent No.1, the respondent No.3 by the communication dated 29th September, 2008 inter alia rejected the application of the petitioners for development of the said plot of land on the ground that part of the said plot of the land is for extension of college and is reserved for Royal College and in the absence of NOC from the said Royal College, it is bound by the said reservation of the said plot of land for extension of college and it is not possible to permit the development. Hereto annexed and marked as Exhibit M is a copy of the said communication dated 29th September, 2008 in English translation along with its original Marathi copy.

26. It is submitted that the action of the respondents in not sanctioning and granting the petitioners' proposal submitted to the respondent No.2 vide their Architects letter dated 28th July, 2008, for construction of library building on the property bearing Survey No.237 p. of village - Pankarpada, District Thane, Mira Road, Thane and the communication dated 29th September, 2008 (hereinafter referred to as “the impugned communication”) issued by

respondent No.3 rejecting the petitioners proposal is illegal and otherwise untenable and unsustainable in law on the following amongst other grounds, which are taken without prejudice to one another."

7. In the counter affidavits filed by respondent Nos. 6, 8-10, 12, 13, 15 and 16, it was pleaded that reservation of the land belonging to respondent No.1 cannot be treated to have lapsed because the acquisition proceedings had already commenced and in terms of the direction given by the High Court in Writ Petition No.4341/2005, the Special Land Acquisition Officer was required to pass an award within the stipulated period. However, they did not dispute the averments contained in various paragraphs of the writ petition, which have been extracted hereinabove.

8. The Division Bench of the High Court relied upon the judgments of this Court in Girnar Traders v. State of Maharashtra (2007) 7 SCC 555 and Prakash R.Gupta v. Lonavala Municipal Council and others (2009) 1 SCC 514 and ruled that reservation of the land belonging to respondent No.1 will be deemed to have lapsed because the same was neither acquired nor steps were taken for that purpose within six months of the receipt of purchase notice.

9. We have heard learned counsel for the parties and perused the record. Section 126 of the 1966 Act, which provides for the acquisition of land required or reserved for any of the public purposes specified in any plan or scheme prepared under the Act and Section 127 of the 1966 Act, which envisages lapsing of reservation in certain contingencies read as under:

"Section 126. Acquisition of land required for public purposes specified in plans. –

(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,-

(a) by an agreement by paying an amount agreed to, or

(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 Land Acquisition Act, 1894, 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

(c) by making an application to the State Government for acquiring such land under the Land Acquisition Act, 1894, 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 Land Acquisition Act, 1894, as the case may be, shall vest 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 if the State Government (except in cases falling under section 49 and except as provided in section 113A) itself is of opinion that any land 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 6 of the Land Acquisition Act, 1894 (1 of 1894), 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 section 6, 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 an 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 area or areas for comprehensive development, whichever is earlier, or as the case may be, the date or publication of the draft town planning scheme:

Provided that, nothing in this sub-section shall affect the date for the purposes 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 (Mah. XI of 1973):

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 subsection (1) of section 40 prior to the commencement of the Maharashtra Regional and Town Planning (Second Amendment) Act, 1972 (Mah. XI of 1973), shall be the market value prevailing on the date of such commencement.

(4) Notwithstanding anything contained in the proviso to sub-section (2) and in subsection (3), if a declaration is not made within the period referred to in subsection (2) or having been made, the aforesaid period expired at the commencement of the Maharashtra Regional Town Planning (Amendment) Act, 1993, the State Government may make a fresh declaration for acquiring the land under the Land Acquisition Act, 1894 (I of 1894), 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.

Section 127. Lapsing of reservation –

> 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 proceedings for the acquisition of such land under this Act or under the Land Acquisition Act, 1894 (1 of 1894), 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, and if within six months from the date of 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."

10. The above-reproduced provisions were considered by this Court in Municipal Corporation of Greater Bombay v. Dr. Hakimwadi Tenants' Association 1988 (Supp.) SCC 55. The facts of that case were that the Planning Authority had published a draft Development plan in respect of 'D' ward showing the property belonging to late Dr. Eruchshaw Jamshedji Hakim as reserved for recreation ground. The final Development plan was made effective from 7.2.1967. However, no action was taken for the acquisition of land. The owner served purchase notice dated 1.7.1977 on the Commissioner of the Corporation. After about 6 months, the Corporation passed resolution dated 10.1.1978 for the acquisition of land and sent an application to the State Government for taking necessary steps. Thereupon, the State Government issued Notification dated 7.4.1978 under Section 6 of the Land Acquisition Act, 1894 (for short, 'the 1894 Act'). The writ petition filed by Dr. Hakimwadi Tenants' Association questioning the notification was allowed by the learned Single Judge of the Bombay High Court, who held that the acquisition proceedings commenced by the State Government under Section 126(2) of the 1966 Act at the instance of the Planning Authority were not valid because steps were not taken for the acquisition of land under Section 126(1) of the 1966 Act read with Section 6 of the 1894 Act within the prescribed time. The learned Single Judge observed that the period of six months prescribed under Section 127 of the 1966 Act began to run from the date of service of purchase notice and the Corporation had to take steps to acquire the property before 4.1.1978, which was not done. The Division Bench of the High Court approved the view taken by the learned Single Judge and held that the most crucial step was the application to be made by the Corporation to the State Government under Section 126(1) of the

1966 Act for the acquisition of the land and such step ought to have been taken within the period of six months commencing from 4.7.1977. This Court agreed with the counsel for the Corporation that the words 'six months from the date of service of such notice' used in Section 127 of the 1966 Act were not susceptible to a literal construction, but observed:

> "8. ……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."
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> (emphasis supplied)

The Court then made detailed analysis of Section 127 of the 1966 Act and held:

> "10. Another safeguard provided is the one under Section 127 of the Act. It cannot be laid down as an abstract proposition that the period of six months would always begin to run from the date of service of notice. The Corporation is entitled to be satisfied that the purchase notice under Section 127 of the Act has been served by the owner or any person interested in the land. If there is no such notice by the owner or any person, there is no question of the reservation, allotment or designation of the land under a development plan of having lapsed. It a fortiori follows that in the absence of a valid notice under Section 127, there is no question of the land becoming available to the owner for the purpose of development or otherwise. In the present case, these considerations do not arise. We must hold in agreement with the High Court that the purchase notice dated July 1, 1977 served by Respondents 4-7 was a valid notice and therefore with the failure of the appellant to take any steps for the acquisition of the land within the period of six months therefrom, the reservation of the land in the Development Plan for a recreation ground lapsed and consequently, the impugned notification dated April 7, 1978 under Section 6 of the Land Acquisition Act issued by the State Government must be struck down as a nullity.

11. Section 127 of the Act is a part of the law for acquisition of lands required for public purposes, namely, for implementation of schemes of town planning. The statutory bar created by Section 127 providing that reservation of land under a development scheme shall lapse if no steps are taken for acquisition of land within a period of six months from the date of service of the purchase notice, is an integral part of the machinery created by which acquisition of land takes place. The word "aforesaid" in the collocation of the words "no steps as aforesaid are commenced for its acquisition" obviously refer to the steps contemplated by Section 126(1). The effect of a declaration by the State Government under sub-section (2) thereof, if it is satisfied that the land is required for the implementation of a regional plan, development plan or any other town planning scheme, followed by the requisite declaration to that effect in the official Gazette, in the manner provided by Section 6 of the Land Acquisition Act, is to freeze the prices of the lands affected. The Act lays down the principles of fixation by providing firstly, by the proviso to Section 126(2) that no such declaration under sub-section (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 sub-section (4) of Section 126 that if a declaration is not made within the period referred to in sub-section (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."

(emphasis supplied)

11. The same issue was again considered in Girnar Traders (II). S.P. Building Corporation was the owner of a piece of land bearing City Sy. No. 18/738 admeasuring about 5387.35 square yards situated at Carmichael Road, Malabar Hill Division, Mumbai. The Development plan prepared by Bomba Municipal Corporation was sanctioned by the State Government on 6.1.1967 and was enforced on 7.2.1967. The land belonging to S.P. Building Corporation was notified as "open space and children's park". After coming into force of the 1966 Act, the landowners served notice under Section 127 of that Act for de-reservation of the land. Two similar notices were issued by S.P. Building Corporation on 18.10.2000 and 15.3.2002. After about eight months, the State Government issued notification dated 20.11.2002 under Section 126(2) and (4) of the 1966 Act read with Section 6 of the 1894 Act. Writ Petition No.353/2005 filed by S.P. Building Corporation questioning the notification issued by the State Government was dismissed by the Division Bench of the High Court by observing that Resolution dated 9.9.2002 passed by the Improvement Committee of the Municipal Corporation would constitute a step as contemplated by Section 127 of the 1966 Act. The Division Bench further held that Section 11A of the 1894 Act, as amended, is not applicable to the proceedings initiated for the acquisition of land under the 1966 Act. Civil Appeal No.3922/2007 filed by S.P. Building Corporation was decided by the three Judge Bench along with Civil Appeal No.3703/2003 - Girnar Traders v. State of Maharashtra. Speaking for the majority, P.P. Naolekar, J., referred to the relevant provisions of the 1966 Act including Sections 126 and 127, and observed:

"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.

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."

(emphasis supplied)

Naolekar, J. then referred to the judgment in Dr. Hakimwadi Tenants' Association (supra) and observed:

"52. ……Thus, after perusing the judgment in Municipal Corpn. of Greater Bombay case we have found that the question for consideration before the Court in Municipal Corpn. of Greater Bombay case has reference to first step required to be taken by the owner after lapse of 10 years' period without any step taken by the authority for acquisition of land, whereby the owners of the land served the notice for dereservation of the land. The Court was not called upon to decide the case on the substantial step, namely, the step taken by the authority within six months of service of notice by the owners for dereservation of their land which is second step required to be taken by the authority after service of notice.

53. The observations of this Court regarding the linking of word "aforesaid" from the wordings "no steps as aforesaid are commenced for its acquisition" of Section 127 with the steps taken by the competent authority for acquisition of land as provided under Section 126(1) of the MRTP Act, had no direct or substantial nexus either with the factual matrix or any of the legal issues raised before it. It is apparent that no legal issues, either with respect to interpretation of words "no steps as aforesaid are commenced for its acquisition" as stipulated under the provisions of Section 127 or any link of these words with steps to be taken on service of notice, were contended before the Court. Thus, observations of the Court did not relate to any of the legal questions arising in the case and, accordingly, cannot be considered as the part of ratio decidendi. Hence, in light of the aforementioned judicial pronouncements, which have well settled the proposition that only the ratio decidendi can act as the binding or authoritative precedent, it is clear that the reliance placed on mere general observations or casual expressions of the Court, is not of much avail to the respondents.

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. 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.

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.

58. The MRTP Act does not contain any reference to Section 4 or Section 5-A of the LA Act. The MRTP Act contains the provisions relating to preparation of regional plan, the development plan, plans for comprehensive developments, town planning schemes and in such plans and in the schemes, the land is reserved for public purpose. The reservation of land for a particular purpose under the MRTP Act is done through a complex exercise which begins with land use map, survey, population studies and several

other complex factors. This process replaces the provisions of Section 4 of the LA Act and the inquiry contemplated under Section 5-A of the LA Act. These provisions are purposely excluded for the purposes of acquisition under the MRTP Act. The acquisition commences with the publication of declaration under Section 6 of the LA Act. The publication of the declaration under sub-sections (2) and (4) of Section 126 read with Section 6 of the LA Act is a sine qua non for the commencement of any proceedings for acquisition under the MRTP Act. It is Section 6 declaration which would commence the acquisition proceedings under the MRTP Act and would culminate into passing of an award as provided in sub-section (3) of Section 126 of the MRTP Act. Thus, unless and until Section 6 declaration is issued, it cannot be said that the steps for acquisition are commenced.

59. There is another aspect of the matter. If we read Section 126 of the MRTP Act and the words used therein are given the verbatim meaning, then the steps commenced for acquisition of the land would not include making of an application under Section 126(1)(c) or the declaration which is to be made by the State Government under sub- section (2) of Section 126 of the MRTP Act.

60. On a conjoint reading of sub-sections (1), (2) and (4) of Section 126, we notice that Section 126 provides for different steps which are to be taken by the authorities for acquisition of the land in different eventualities and within a particular time span. Steps taken for acquisition of the land by the authorities under Clause (c) of Section 126(1) have to be culminated into Section 6 declaration under the LA Act for acquisition of the land in the Official Gazette, within a period of one year under the proviso to sub-section (2) of Section 126. If no such declaration is made within the time prescribed, no declaration under Section 6 of the LA Act could be issued under the proviso to sub-section (2) and no further steps for acquisition of the land could be taken in pursuance of the application moved to the State Government by the planning authority or other authority.

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)."

(emphasis supplied)

12. Recently, another three Judge Bench, of which both of us were members, considered the scope of Sections 126 and 127 of the 1966 Act in the Civil Appeal arising out of SLP(C) No.9934 of 2009 Shrirampur Municipal Council, Shrirampur v. Satyabhamabai Bhimaji Dawkher and others and connected matters and reiterated the view expressed by the majority in Girnar Traders v. State of Maharashtra (supra).

13. In the last mentioned judgment, the Court emphasized that if any private land is shown as reserved in the Development plan, the same can be acquired within 10 years either by agreement or by following the procedure prescribed under the 1894 Act and if proceedings for the acquisition of the land are not commenced within that period and a further period of six months from the date of service of notice under Section 127 of the 1966 Act, reservation will be deemed to have lapsed and the land will be available for development by the owner.

14. By applying the ratio of the above-noted judgments to the facts of this case, we hold that the High Court did not commit any error by declaring that reservation of the land owned by respondent No.1 had lapsed and the rejection of its application for construction of library building was legally unsustainable. Consequently, the appeal is dismissed.