

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 881/2015

(KALIDAS BHAIYALALJI GUPTA & ANOTHER **VERSUS** NAGPUR IMPROVEMENT TRUST,
NAGPUR & OTHERS)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Abhay Sambre, counsel for the petitioners.
Shri M.V. Samarth, counsel for the R-1 to 3.

CORAM : SMT. VASANTI A. NAIK AND
PRASANNA B. VARALE, JJ.

DATE : DECEMBER 15, 2015.

Heard.

By this petition, the petitioners have sought a direction to the Nagpur Improvement Trust to reconsider the application of the petitioners for regularization of plot nos.13 and 14. The petitioners have also challenged the notice of the respondent-Trust, dated 31.01.2015 directing the petitioners to demolish the construction within the stipulated time. By amending the writ petition, the petitioners seek a direction to the respondent-Trust to regularize only a part of plot nos.13 and 14 that is not affected by the Development Plan reservation.

It is stated on behalf of the petitioners that the application of the petitioners for regularization of plot nos.13 and 14 was rejected on the ground that the said plots were affected by the regulations in respect of the railway boundary and in the development plan, the plots of the petitioners were reserved for the playground. It is stated that the petitioners' plots are not affected by the railway boundary and they are at a considerable distance from the same. It is stated that the respondent-Trust has not taken any action in respect of the constructions made at a distance that is lesser than the distance at which the plots of the petitioners are

situated from the railway line. It is stated that the respondents may be directed to reconsider the application of the petitioners for regularization of the portion of the plots that is not affected by the reservation in the development plan.

In the circumstances of the case, in our view, it would be necessary to direct the respondent-Nagpur Improvement Trust to reconsider the application of the petitioners for regularization, in view of the statements made on behalf of the petitioners. The petitioners may file an application for regularization of the portion of plot nos.13 and 14 that is not affected by the reservation under the development plan. The respondent-Trust could also consider the case of the petitioner that the plots of the petitioners are not affected by the railway boundary.

Hence, we partly allow the writ petition. The respondent-Nagpur Improvement Trust is directed to reconsider the application made by the petitioners for regularization of the portion of plot nos.13 and 14 that is not affected by the playground reservation and the railway boundary. The petitioners undertake to make an application within a period of three weeks. If the application is so made, the respondent-Trust should decide the same in accordance with law within a period of three months, after giving a reasonable opportunity to the petitioners. The ad-interim relief would continue till the application is decided.

Order accordingly. No costs.

JUDGE

JUDGE

APTE