

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.

WRIT PETITION NO.3145 OF 2014

(Smt. Deokabai w/o Baliram Dhage and others ..vs.. Nagpur Municipal Corporation and others)

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

Court's or Judge's orders

Shri S.D. Khati, Advocate for the petitioners,
 Shri M.D. Samel, Advocate for the respondent Nos.2 to 5.

CORAM : Z.A. HAQ, J.

DATED : 23-11-2015

The petitioners have challenged the order passed by the District Court rejecting their application filed under Section 286(5) of the City of Nagpur Corporation Act, 1948.

2. The contention of the petitioners is that the respondent Nos.2 to 5 have encroached on some portion of land between the houses of the petitioners and the respondent Nos.2 to 5 and have undertaken construction contrary to the plan sanctioned by the Municipal Corporation. It is submitted on behalf of the petitioners that the Municipal Corporation had issued notice dated 17-05-2008 (Exhibit No.96) calling upon the respondent Nos.2 to 5 to remove the part of construction.

3. In paragraph No.13 of the impugned order, it is recorded that Regular Civil Suit No.212 of 2011 is filed by the respondent No.2 against the Municipal Corporation in which the petitioner No.1 is also party. In

this civil suit, an order of *status quo* is operating. It is recorded that the proceedings are pending before the Superintendent of Land Records between the parties in respect of the land on which, according to the petitioners, the respondent Nos.2 to 5 have encroached.

4. In view of the fact that the matters is substantively adjudicated before the competent forum, I am not inclined to entertain this writ petition. The writ petition is dismissed. In the circumstances, the parties to bear their own costs.

Needless to say that, I have not examined the legality of the impugned order and the *fora* before which the dispute is pending shall consider points raised by the respective parties on merits.

JUDGE