

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

WRIT PETITION NO. 4190 OF 2016

Gunwant s/o Wamanrao Tumsare

-vs-

Nagpur Improvement Trust, thr. Its Executive Engineer, Nagpur and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr.S.P.Bhandarkar, counsel for the petitioner

CORAM : SMT. VASANTI A. NAIK &
MRS. SWAPNA JOSHI, JJ.

DATE : 22.07.2016.

By this writ petition, the petitioner challenges the release letter issued by the Nagpur Improvement Trust, Nagpur, permitting the regularization of the construction of house / plot of the respondent No.4.

According to the petitioner, the petitioner had purchased a plot admeasuring 6,000 sq.ft.at Mouza Besa by a registered sale deed. Narhari Cooperative Housing Society Limited had purchased 1.01 hectare of land from Khasra No.78/3 from Shri Asare. It is the case of the petitioner that though the plotable area of the said Housing Society was only 67,500 sq.ft., the Housing Society sold the plots to the extent of 96,302 sq.ft. It is stated that in view of the excess area that was sold by the Society, there is an overlapping within the plots in the said Housing Society whereby the plot of the petitioner is affected. It is stated that the aforesaid Society has sold Plot No.8, admeasuring 6,695 sq.ft. to Mrs. Durugkar vide registered sale deed in the year 1990 and due to the overlapping, a correction deed was executed by the Housing Society in favour of Mrs.

Durugkar. It is stated that the correction deed was concealed by Mrs. Durugkar and the respondent Nos.2 to 4 in collusion with Mrs. Durugkar have secured the release deed from the Nagpur Improvement Trust. It is stated that since the release deed is fraudulently secured by Mrs. Durugkar and the respondent Nos.2 to 4, the release deed is liable to be set aside.

We are not inclined to entertain the writ petition on the aforesaid set of facts, in exercise of the writ jurisdiction. It appears that civil suits are pending between the parties in respect of the encroachment allegedly made by the parties to the civil suits on the plots of each other. It is the case of the petitioners that the respondent Nos.2 to 4 and Mrs. Durugkar have fraudulently secured the release deed from the Nagpur Improvement Trust by concealing the material documents. The said issues cannot be decided, in exercise of the writ jurisdiction. Since the civil suits are pending between the parties, the issues involved in this writ petition could also be decided in the said civil suits.

In view of the aforesaid, we dismiss the writ petition with no order as to costs. The points raised in the petition are kept open.

JUDGE

JUDGE

C E R T I F I C A T E

I certify that this Order uploaded is a true and correct copy of original signed Order.

Uploaded by : G.S.Khunte,
P.A.to Hon'ble Judge

Uploaded on : 26/07/2016