

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

WRIT PETITION NO.4146/2014

Mohammad Mazar s/o Mohd. Yusuf and another

...Versus...

The Nagpur Improvement Trust through its Chairman, Nagpur 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. Deshpande, Advocate for petitioners
Shri P.S. Wathore, Advocate for respondent no.2
Shri P.N. Kothari, Advocate for respondent no.3

**CORAM : SMT. VASANTI A. NAIK AND
V.M. DESHPANDE, JJ.**

DATE : 07.03.2016

By this writ petition, the petitioners seek a direction to the respondent – Nagpur Improvement Trust to regularize the plots of the petitioner bearing plot Nos.38 and 39 after accepting the development charges.

It is the case of the petitioners that the petitioners have purchased the plots from the respondent – Society by registered sale-deed, dated 26.12.2012. According to the petitioners, an agreement of sale was executed in favour of the petitioners as early as in the year 1982. It is stated that though the petitioners are seeking the regularization of their plots, the Nagpur Improvement Trust has declined to regularize the same on the ground that there is a dispute in respect of the ownership and title to the said plots.

Shri Wathore, the learned Counsel for the respondent no.2 – Society states that there was a dispute in the Management of the Society and the Secretary has illegally sold some plots. It is

stated that the plots appear to have been illegally sold to the respondent no.4 before they were sold to the petitioners in the year 2012. It is stated that the sale of plots in favour of the petitioners is valid and the sale of the plots to the respondent no.4 is not legal.

Shri Kothari, the learned Counsel for the respondent no.3 states that the respondent no.3 has purchased the plots from the respondent no.2 – Society, earlier in the point of time than the purchase of the plots by the petitioners in the year 2012. It is stated that even before filing of the writ petition, the respondent no.3 has instituted a civil suit for declaration in respect of the title to the said plots. It is stated that during the pendency of the said suit, the petitioners have filed this writ petition.

We do not find any illegality in the action on the part of the Nagpur Improvement Trust in refusing to regularize the plots of the petitioners, at this stage. There is a dispute in respect of the title to the said plots vis-a-vis the petitioners and the respondent no.3. The respondent no.3 appears to have filed a suit before the institution of this writ petition. The dispute is clearly of a civil nature and the Nagpur Improvement Trust has, in the circumstances of the case, refused to regularize the plots in favour of the petitioners.

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

JUDGE

JUDGE