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

WRIT PETITION NO. 5109/2016

(SURINDER KAUR SATVINDAR SINGH GHOTRA **VERSUS** N.M.C., NAGPUR & ANOTHER)

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

Shri H.R. Gadhia, counsel for the petitioner.
Shri T.Zaheer, counsel for the R-1.
Shri G.A. Kunte, counsel for the R-2.

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

DATE : NOVEMBER 15, 2016.

By this writ petition, the petitioner seeks a direction against the respondent-authorities to remove the unauthorized development/construction made on the land of the petitioner by unknown persons-occupiers.

According to the petitioner, the concerned plot was allotted by the Nagpur Improvement Trust to the husband of the petitioner in the year 1984. It is stated that some unknown persons have made unauthorized construction on the said plot. It is stated that though the petitioner has approached the respondent-authorities to remove the unauthorized construction, the respondents have not taken any action.

Shri Kunte, the learned counsel for the respondent no.2, states that the petitioner cannot claim any right to the plot in question as the allotment of the plot in favour of the husband of the petitioner stood cancelled by the order of the Nagpur Improvement Trust on 04.12.2015. It is stated that if the petitioner is aggrieved by the order of the Nagpur Improvement Trust or by the action of the other

persons that are unknown, the petitioner has other remedies. It is stated that a direction, as sought by the petitioner, may not be issued in exercise of the writ jurisdiction.

On hearing the learned counsel for the parties, we find that several disputed questions of facts arise for determination in this writ petition. Though it is stated on behalf of the petitioner that an application is made by the petitioner for renewal of the lease of the land after the cancellation of the allotment, the application is not yet decided. Even if the petitioner is an allottee of the land and if some persons have illegally encroached upon the same, it would be necessary for the petitioner to file appropriate proceedings as disputed questions of facts cannot be decided in exercise of the writ jurisdiction.

Hence, we dismiss the petition with no order as to costs. The points raised in the petition are, however, kept open.

JUDGE **JUDGE**

APTE