

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

WRIT PETITION NO. 4071 OF 2018

(Suresh Ghanshyam Ghangare vs. State of Maharashtra thr. its Secretary, Urban Development
Department & Ors.)

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

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
Z.A. HAQ, JJ.
AUGUST 07, 2018.**

Shri P.D. Sharma, learned counsel for the petitioners, Shri N.R. Patil, learned AGP for respondent No. 1 and Shri S.M. Puranik, learned counsel for respondent Nos. 2 & 3.

2. The matter is being heard since long and we have also given the petitioners opportunity to bring on record additional documents.

3. The respondents have carried out measurement again on 24.07.2018. The affidavit filed by them reveals that 24.26 square meters of construction on Plot No. 170 and 52.20 square meters of construction on Plot No. 168 is extra i.e. encroachment.

4. The Municipal Corporation is increasing road width and Shri Puranik, learned counsel on behalf of the Corporation submits that the Corporation is not removing even entire extra structure i.e. encroached portion. The structure affected by road alignment is only being removed.

5. It is an admitted position that road widening is in progress and the neighbours have not opposed the same.

6. The petitioners have filed a rejoinder and in it they urged that the measurement conducted on 24.07.2018 is defective. According to them, the demarcation should not have been commenced from the house of Shri Ghanshyam.

7. We find no substance in this contention. The petitioners could have explained to Court the portion of plot left with them after road alignment. In rejoinder there is no such effort.

8. “Sanad” on which the petitioners place reliance restricts their possession to 69.8 square meters of Plot No. 170.

9. In this situation, we find that several disputed questions arise which cannot be answered satisfactorily in this jurisdiction. Moreover the work which has already commenced cannot be stopped only because of objection being raised by the petitioners. If there is any substance in the contentions of the petitioners, they can always be compensated as per law.

10. Hence, with these observations, we reject the present writ petition. No order as to costs.

JUDGE

JUDGE