

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

CIVIL APPLICATION (CAO) NO. 1214 OF 2018
AND
CIVIL APPLICATION (CAO) NO. 1216 OF 2018
IN
CIVIL APPLICATION NO. 2521 OF 2005

IN
WRIT PETITION NO. 2688 OF 2004 (D)

(KU. AASHA MALGAWE @ SAU. AASHA PRABHAKARRAO MANDHARE...VS..THE CHAIRMAN,
SCHOOL COMMITTEE & OTH.)

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

Court's or Judge's orders

Shri A.R.Patil, Advocate for Org.Petitioner/Applicant in CA No.1214/18.
Shri A.M.Ghare, Advocate for Org.Resp. No. 4/Applicant in CA 1216/18.
Shri S.D.Sirpurkar, A.G.P. for Respondents/State.
Shri S.P.Bhandarkar, Advocate for Resp. Vidya Shikshan Prasarak Mandal.

CORAM : B.P.DHARMADHIKARI AND
Z.A.HAQ, JJ.

DATED : JULY 16, 2018.

1. The applicant who succeeded in Writ Petition No. 2688 of 2004 has filed this application for auction of the attached property of the respondent No.1-Nav Jagruti Vidyalaya so that her dues can be recovered. It appears that in the meanwhile the respondent No.1 has entered into some arrangement with respondent No.5 and part of the amount was paid to the original petitioner. It is not in dispute today that the arrangement is now over and the affairs of the school of the respondent No.1 are now being looked after by the Employees Society which is respondent No.4 before us.

2. The respondent No.4 has paid entire outstanding amount of the petitioner, out of it an amount of Rs.2,00,000/-

is in deposit with the Registry of this Court. The said respondent No.4, therefore, has filed Civil Application for disposal of the Miscellaneous Civil Application for discharging the property which is attached and for consequential direction to Nagpur Improvement Trust to execute necessary (renewed) Lease-Deed in its favour.

3. Advocate Shri Patil who appears for the original petitioner and applicant in the Miscellaneous Civil Application (Ku.Aasha) does not have any objection if the proceedings are accordingly disposed of. He, however, seeks leave to withdraw the amount of Rs.2,00,000/- in deposit with the Registry of this Court.

4. Advocate Shri Ghare appearing for the respondent No.4 submits that now the respondent No.1-Nav Jagruti Vidyalaya or Non-applicant No.5-VSPM Academy of Higher Education are in no way concerned with the affairs or property of the school and the lease deed so far in the name of the respondent No.1 is not renewed in the name of its successors namely respondent No.4.

5. The A.G.P. appearing for the respondent Nos. 2 and 3 submits that the respondent Nos. 2 and 3 are not concerned with the controversy. According to him, Nagpur Improvement Trust was impleaded as party only for the purpose of one application which is already disposed of and therefore, now it is not before the Court.

6. Advocate Shri Bhandarkar appears for the Non-applicant No.5 and he states that the Non-applicant No.5 is now not concerned with the controversy in any manner and it

has already handed over the property and possession to the respondent No.4.

7. In this situation, we direct the respondent Nos.2 and 3 to verify credentials of the respondent No.4. If the respondent No.4 is found to be a society formed by the employees of the respondent No.1-Nav Jagruti Vidyalaya and functioning properly, the respondent Nos. 2 and 3 may recommend renewal of lease in favour of the respondent No.4 to Nagpur Improvement Trust.

8. The application moved by the respondent No.4 for renewal of the Lease-Deed shall be considered as per the relevant DCR by Nagpur Improvement Trust/ successors in accordance with law. The decision in this respect shall be taken within next six months after giving all the concerned proper opportunity. The original petitioner Ku.Aasha is permitted to withdraw amount of Rs.2,00,000/- with interest accrued upon from the Registry of this Court.

9. In view of the joint request made and accordingly recording compromise in terms of Civil Application No. 1214 of 2018, the application is **disposed of** in the above terms. No costs.

(Z.A.Haq, J)

(B.P.Dharmadhikari,J)