

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

Misc. Civil Application No.1036 of 2017

In

Writ Petition No.5891 of 2007 (D)

[Nagpur Improvement Trust, through its Chairman, Nagpur v. Pramod s/o
Ganpatrao Pingre, and another]

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

Shri S.K. Mishra, Senior Advocate, assisted by Shri Kaustubh Deogade, Advocate for Review Petitioner.

Shri A.S. Kilor, Advocate for Original Petitioner.

Coram : R.K. Deshpande & Mrs. Swapna Joshi, JJ.

Dated : 9th March, 2018

Heard Shri S.K. Mishra, the learned Senior Advocate, assisted by Shri Kaustubh Deogade, Advocate, appearing for the review petitioner; and Shri A.S. Kilor, the learned counsel appearing for the original petitioner.

The review of the judgment delivered by this Court on 21-7-2017 in Writ Petition No.5891 of 2007 is sought basically on the ground that the original petitioner had no locus standi to challenge the imposition, particularly when he was well aware of the condition No.6 in the letter of regularization, which required him to pay the price at the rate of Rs.16/- per square foot. It is urged by Shri Mishra, the learned

Senior Advocate appearing for the review petitioner, that once this regularization is accepted on the basis of such condition, whether the original petitioner be the seller or the purchaser of the property, he cannot escape the liability of payment. Shri Mishra also invited our attention to the decision of the Division Bench of this Court delivered in Writ Petition No.183 of 2011 [*Mithil Harishchandra Kolte v. Nagpur Improvement Trust and another*] on 1-8-2011 and has urged that this Court has rejected the similar challenge made in another writ petition.

So far as the decision in Writ Petition No.183 of 2011 is concerned, this Court has considered the aspect as to whether the relinquishment was a transfer of the property or it was succeeding the property by way of inheritance. This Court has held that it is a transfer of property and not an inheritance and, therefore, it was not covered by condition No.6 in the letter of regularization requiring him to pay the additional charges at the rate of Rs.16/- per square foot. The said decision turns upon the facts of the case involved in the matter and in our view there is no ratio, which can be followed by this Court in this review petition.

So far as the aspect of locus of the original petitioner to challenge the imposition is concerned, obviously this question was not raised when the original petition was decided. Be that as

it may, it is the original petitioner who was required to pay the amount and, therefore, the competency of the NIT to recover such amount by passing the resolution, which was sought to be implemented, fell for consideration. This Court has held that the NIT was not competent to impose the additional regularization/development charges for sale of the property at the rate of Rs.16/- per square foot.

Thus, no case is made out for review. The review petition is dismissed.

(Mrs. Swapna Joshi, J.)

(R.K. Deshpande, J.)