

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

Writ Petition No.879 of 2019

Process Server Co-operative Housing Society Limited and one
Versus
State of Maharashtra and others

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

Shri M. Anilkumar, Advocate for the petitioners,
Shri N.S. Rao, AGP for respondent nos.1, 2 and 7,
Shri S.M. Puranik, Advocate for respondent no.3,
Shri G.A. Kunte, Advocate for respondent no.4,
Shri H. Puranik, Advocate for respondent no.5,
Shri Anand Jaiswal, Senior Advocate, assisted by Shri N.G. Moharir,
Advocate for respondent no.6.

Coram : R.K. Deshpande & Vinay Joshi, JJ.

Date : 06.08.2019.

The petitioners claim to be erstwhile owner of Survey Nos.89/1, 90/1, 91/1 ("the lands in question"). All these survey numbers are acquired by the Nagpur Improvement Trust and were the subject matter of Award dated 25.03.1981 under Bhamti Parsodi Street Scheme. The possession was taken by the Nagpur Improvement Trust on 13.05.1981.

Earlier the Nagpur Improvement Trust was the Planning Authority in respect of the lands in question, but since 2002, it is the Nagpur Municipal Corporation which has gained control over it as the Planning Authority, under the Maharashtra Regional and Town Planning Act, 1966.

According to the petitioners, Kh. No. 91/1-K and 91/1-Kh are the part and parcel of the earlier Kh. No.91/1. According to the Nagpur Improvement Trust, there is a reservation of land ad-measuring 2401.54 sq. mtrs. in the development plan for the Veterinary Hospital in Kh.No.91/1-K, whereas, according to the Nagpur Municipal Corporation, the reservation is in Kh. No.91/1-Kh. The controversy is regarding identification of the land reserved for the Veterinary Hospital in the development plan and the residential portion owned by the respondent nos.5 and 6.

Once the land of the petitioners stands vested in the Nagpur Improvement Trust and the Nagpur Municipal Corporation acquires jurisdiction over it as a planning authority, we fail to understand the locus of the petitioners. We have also gone through the reply filed by the Nagpur Municipal Corporation on 25.06.2019 which indicate that after conducting the measurement, the Planning Authority has arrived at the conclusion that the reservation is in Kh. No.91/1-Kh and the same area of 2401.54 sq. mtrs. covered by it, is lying open and unoccupied, whereas plan has been sanctioned in respect of Kh. No.91/1-K for residential purpose. Since several disputed questions of facts are involved for adjudication, it is not possible for us to entertain this writ petition. It is **dismissed**. All questions are left open to be agitated in appropriate proceedings. Needless to say that the interim order stands vacated.

(Vinay Joshi, J.)

(R.K. Deshpande, J.)