

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR.**

**Writ Petition No.1750 of 2018**  
**(Smt. Sandhya wd/o Sanjeev Kothari .vs. The State of Maharashtra and others. )**

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

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Mr. A.M. Ghare, Advocate for Petitioner.  
Ms. Ritu Kalia, AGP for Respondent Nos. 1 to 4.  
Mr. Sunil Manohar, Senior Advocate with Mr. R.V. Malviya, Advocate  
for Respondent No.5.

**CORAM : Manish Pitale, J.**  
**DATED : January 17, 2019.**

By this writ petition, the petitioner has challenged order dated 30.11.2017 passed by the respondent no.4- City Survey Officer, whereby mutation entry has been granted in favour of respondent no.5 in respect of immovable property i.e. 5184 sq.ft. out of 8400 sq.ft. of land bearing Khasra No. 413/1-B, Corporation House No.170, Mouza Nagpur, C.S. No.105/2, Sheet No.226, situated in Ward No.6, Subhash Road, Opp- Agyaram Devi Temple, Nagpur, Tahsil and District Nagpur. The said mutation entry on application submitted by respondent no.5 was made on the strength of sale deed dated 30.10.2017.

2. In the proceedings initiated before the respondent no.4, on the application made by respondent no.5, Smt. Durgadevi Sunderlal Kothari i.e. the mother-in-law of the petitioner herein, had raised an objection and she was shown as an objector. In the said

proceedings, on 14.11.2017, the respondent no.4 had directed issuance of notice to all interested persons. It is the case of the petitioner that she, along with respondent Nos. 6 and 7 and her aforesaid mother-in-law were the interested persons in respect of the said property and that on the application moved by respondent no.5, all of them were required to be heard and to be given opportunity to raise objection to the application for mutation filed by the respondent no.5.

3. It is contended on behalf of the petitioner that despite issuance of notice on 14.11.2017 and without waiting for any proof that such notices were indeed served on all the interested persons including the petitioner and respondent Nos. 6 and 7, the respondent no.4 proceeded to pass the impugned order by rejecting the only objection on record raised by the mother-in-law of the petitioner. In fact the impugned order records that the said person had withdrawn her objection.

4. A preliminary objection was sought to be raised on behalf of respondent no.5 that the writ petition would not be maintainable in the face of alternate remedy available under Section 247 of the Maharashtra Land Revenue Code, 1966. Since the principal ground raised in the present writ petition while challenging the impugned order pertains to violation of principles of natural justice, the writ petition in the instant case would be maintainable.

5. In the reply filed on behalf of respondent no.4,

it has been stated that since objections were not raised by the petitioner and others, notices were not issued to them. Looking to the manner in which the proceedings have been conducted by respondent no.4, including the Roznama placed on record, as also the statement made in paragraph 6 of the reply filed on behalf of respondent no.4, it becomes evident that the petitioner and respondent nos. 6 and 7 were not put to notice and they were certainly not granted opportunity to raise objections with regard to application filed on behalf of respondent no.5 before the respondent no.4 authority.

6. This demonstrates violation of principles of natural justice and on this short ground, the writ petition deserves to be partly allowed.

7. In the light of the above, the writ petition is partly allowed and the impugned order dated 30.11.2017 passed by respondent no.4 is quashed and set aside. The respondent no.4 is directed to consider the application of respondent no.5 again by granting proper opportunity to the petitioner, respondent nos. 6 and 7 and the mother-in-law of the petitioner (original objector before respondent No.4). Upon taking into consideration objections that may be raised by such parties, the respondent no.4 shall pass order on the application filed by respondent no.5.

8. Except mother-in-law of the petitioner, all other parties are before this Court and, therefore, the said person i.e. Smt. Durgadevi Sunderlal Kothari shall

be issued notice by respondent no.4 for remaining present in his office i.e. office of the City Survey Officer-1, Nagpur on 31.01.2019 for consideration of application filed by respondent no.5. Since all other parties i.e. the petitioner, respondent nos. 6 and 7 are already before this Court, no separate notice need be issued to them for remaining present before respondent no.4 on 31.01.2019. Additionally, the learned counsel for the petitioner has submitted that the petitioner undertakes to inform her mother-in-law i.e. Smt. Durgadevi Sunderlal Kothari, about the said date of 31.01.2019 for hearing on the application. The respondent no.4 shall dispose of and pass final order on the application filed by respondent no.5 within a period of three months from 31.01.2019.

**JUDGE**

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