

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

WRIT PETITION NO. 1387/2020

Integra Realities Pvt. Ltd. Nagpur-10

-VERSUS-

The City Survey Officer – 3 & others

Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri A. A. Naik, Advocate for petitioner.

Shri M. A. Barabde, Assistant Government Pleader for
respondent No. 1.

CORAM : VINAY JOSHI, J.

DATE : JULY 20, 2020.

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Heard.

3. The petitioner-land purchaser is seeking to quash and set aside the order dated 08.01.2020 passed by the City Survey Officer, Nagpur relating to land bearing City Survey Nos. 2213 and 2214. It is petitioner's case that concerned land was

2

initially owned by respondent Nos. 2 and 3 who sold the same to respondent No. 4 vide registered sale-deed dated 02.12.2004. Thereafter, petitioner purchased the said land from respondent No. 4 under registered sale-deed dated 29.10.2014. At the instance of petitioner, his name was entered into the Revenue Record vide Mutation Entry No. 15314 to 15316 on 23.03.2018.

4. It is petitioner's submission that original owner has misled the authority by submitting that the land was in possession of the Court of Ward. He has pointed out certain documents to show that already land has been released by the Court of Ward. The next contention is that without issuance of notice or giving right of hearing to the petitioner, the impugned order dated 08.01.2020 was passed by the Revenue Authority. The petitioner would submit that though the Revenue Authority is invested with the powers of review in terms of Section 258 of the Maharashtra Land

3

Revenue Code, however such order cannot be passed without issuing notice to the concerned as contemplated under Section 258(1)(ii) of the Maharashtra Land Revenue Code. Likewise, it is submitted that there was no ground as specified under Section 258(2) of the Maharashtra Land Revenue Code to invoke the powers of review

5. In-fact, petitioner has challenged the order passed of Revenue Authority for which Land Revenue Code itself provides remedy of appeal under Section 247 of the Code. The learned counsel for petitioner submitted that though there is a provision of appeal, a writ jurisdiction can be invoked when the impugned order is without jurisdiction or patently passed against the principle of natural justice. Learned counsel for the petitioner made a statement that he has received a notice of City Survey Authority that the matter is kept on 22.07.2020 to mutate the name of the original owner on the strength of impugned order dated 08.01.2020. Since the statute provided a

4

remedy of appeal, the appellant has to resort the same. However to avoid the multiplicity and to preserve the position as it stands today, it is appropriate to grant some breathing time to the petitioner.

6. Since there is remedy of appeal, the petitioner is directed to file appeal within a period of four weeks from today if advised so. Without going into the merits of the case, it is directed to maintain status-quo about concerned mutation entries for the period of four weeks from today. In case of filing of appeal, the authority shall decide the same without getting influenced by the status-quo order passed by this Court. With this, writ petition stands disposed of accordingly.

7. This order be communicated to the counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

Gohane.

**Jitendra
Gohane**

Digitally signed
by Jitendra
Gohane
Date: 2020.07.21
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