

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

MCA NO.1026/2017 IN WRIT PETITION NO.2412 OF 1993

Anil Mahadeo Nagulkar and others

vs.

Nagpur Improvement Trust and others

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

Court's or Judge's order

.....
Shri A.S.Mardikar, Senior Advocate assisted by
Shri S.G.Joshi, Advocate for the applicants.
Shri R.O.Chabra, Advocate for Respondent
no.1.

CORAM : R.K. DESHPANDE &
MRS. SWAPNA JOSHI, JJ.
DATED : 28.02.2020.

Inviting our attention to para 3 of the decision of this Court, it is urged that the order passed under Section 68 (2) of the Nagpur Improvement Trust Act, 1936 ("the Act" for short) was never made the subject matter of challenge in Regular Civil Suit No.1608/1982 and, therefore, there is an error apparent on the face of record, while dismissing the petition on the ground that it is barred by the principles of *res judicata*. Our attention is also invited to the said suit. We have gone through it.

2. Undisputedly, the order under Section 68(2) of the said Act was passed in the year 1972 and it could

have been easily made the subject matter of challenge in the said Civil Suit. The principle of constructive res judicata is obviously attracted in the present case.

3. In view of the above, we do not find any substance in the application. It is dismissed.

JUDGE

JUDGE

Ambulkar