

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

WRIT PETITION NO.1536 OF 2019

1) Shri Shivajirao Gajananrao Charde,
age 82 years, Advocate,
r/o Himalaya Classics, Shivaji Nagar,
Nagpur.

2) Shri Prakashrao Gajananrao Charde,
age 70 years, Agriculturist, '
At, Post and Tahsil : Narkhed,
District Nagpur.

... Petitioners

- Versus -

1) The Municipal Council, Narkhed,
through the Chief Officer,
Post and Tahsil : Narkhed,
District Nagpur – 441304.

2) The Assistant Director of Town
Planning, Valuation Department,
Administrative Building No.1,
2nd Floor, Civil Lines,
Nagpur – 440001.

3) State of Maharashtra, through its
Secretary, Urban Development
Department, Mantralaya,
Mumbai – 400032.

... Respondents

Smt. B.P. Maldhure, Advocate for petitioners.

Shri M.I. Dhatrak, Advocate for respondent no.1.

Shri N.R. Patil, Assistant Government Pleader for respondent nos.2
and 3.

CORAM : SUNIL B. SHUKRE AND
ANIL S. KILOR, JJ.

DATED : JUNE 24, 2021

ORAL JUDGMENT (PER SUNIL B. SHUKRE, J.) :

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

2) Rule, returnable forthwith. Heard finally by consent of Smt. Maldhure, learned Counsel for the petitioners, Shri Dhatrik, learned Counsel for the respondent no.1, and Shri Patil, learned Assistant Government Pleader for the respondent nos.2 and 3.

3) We find that now the petitioners are ready to give up their claim as regards interest on compensation amount determined, which is of Rs.36,95,140/- already deposited in this Court provided respondents are willing to waive interest on the balance development charges amounting to Rs.12,89,361/-. Shri Dhatrik, learned Counsel for the respondent no.1, submits that waiver of interest on the development charges on condition that the petitioners shall also give up their claim as regards interest on

compensation amount determined, is a matter, which will have to be placed before the General Body of respondent no.1 Municipal Council for appropriate decision.

4) If that be so, we are of the view that let the General Body of respondent no.1 Municipal Council take appropriate decision in a time bound manner, but till that happens, we need not forbid the petitioners from enjoying the fruits of the compensation amount already deposited in this Court. In this view of the matter, we are inclined to partly allow this petition and it is allowed accordingly.

We direct that the petitioners shall be permitted to withdraw the amount of compensation deposited in this Court in its entirety in their equal shares and the payment of their such shares in the compensation amount could also be made apart from usual mode, through online remittance to their respective Bank Accounts, if it is consented to by the petitioners. We further direct that subject of waiver of interest on the development charges amounting to Rs.12,89,361/- in lieu of waiver of interest by both the petitioners on Rs.36,95,140/- together with payment of solatium be placed before the General Body of respondent no.1 Municipal Council for

appropriate decision in the matter, which decision shall be taken by the respondent no.1 within a period of eight weeks from today. We also direct the petitioners to deposit with the respondent no.1 amount of Rs.95,863/- within four weeks from today. Rights of both parties are kept open.

5) Rule is made absolute in the above terms. No costs.

JUDGE

JUDGE

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