

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

**Writ Petition No. 1324/2021
Marmik Shende and others V Nagpur Improvement Trust and others**

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

Court's or Judge's Order

Ku. R.V. Kukday, Advocate for the Petitioners.

**CORAM : V.M. DESHPANDE, J.
DATED : 11 MARCH 2021**

This Writ Petition is filed by the original plaintiffs challenging the order passed by the learned 13th Joint Civil Judge Senior Division, Nagpur dated 04-01-2021, allowing the application filed on behalf of the respondent no.4-Rajendra, seeking permission to intervene in the suit.

2. From the plaint statement it is seen that the petitioner no.1 purchased plot bearing Plot No.90 of Ward No.15 from one Deorao Bhagat. The legal representatives of plaintiff no.2 are joined as plaintiff nos. 2(1) to 2(4) for a valuable consideration. The plaint further proceeds that after acquiring the title, an

application was moved before the Nagpur Improvement Trust for getting regularization of the said plot. However, the application was rejected vide order dated 26-03-2014. Therefore, the suit for declaration was filed seeking declaration that the order is not in consonance with the provisions of the Maharashtra Genthewari Development (Regulation, Up-gradation and Control) Act, 2001. During the pendency of the suit the respondent no.4 filed application which is allowed by the trial Court.

3. In paragraph 7 of the impugned order it is observed by the learned Judge that along with the application respondent no.4-Rajendra has filed documents including the copy of the Sale Deed in respect of Plot No.90 wherein House Number is also mentioned. In that context, the learned Judge found that the presence of respondent no.4 will be necessary.

4. The submission of the learned Counsel for the petitioners that by allowing the application the nature of the suit has been changed. I am afraid to accept such statement.

5. On the contrary, the presence of respondent no.4 will be necessary in as much as looking to the fact that the Sale Deed is filed on record which pertains to

the very same plot for which the petitioner is seeking regularization, the respondent no.4 will be a proper party and his presence will be required for the Court to adjudicate the cause before it. The learned Judge of the trial Court, in my view, has not committed any error in allowing the application.

6. Since no error is there, this Court refraining itself from exercising supervisory discretionary powers under Article 227 of the Constitution India.

7. The Writ Petition is rejected.

JUDGE