

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

WRIT PETITION NO. 2466 OF 2014

1. Vijaykumar Jain s/o Ramnarayan Jain,
Aged about 60 years, Occu. Business

2. Sudha w/o Vijaykumar Jain,
Aged about 55 years, Occu. Business

Both R/o 101, Building No.A, Wing B,
Forest Employees Colony, Near Centre
Point School, Katol Road, Nagpur.

3. Jummandas Makhijani
Aged about 41 years, Occu. Business,
Proprietor of 'Raja Stores',
Surana Chambers, Gandhi Chowk,
Sadar, Nagpur

-- Petitioners

..V E R S U S..

1. The Municipal Corporation of the city of
Nagpur, Civil Lines, Nagpur

2. The Commissioner,
Nagpur Municipal Corporation
Civil Lines, Nagpur

3. Shri. Prakash Warade,
The Assistant Commissioner,
Nagpur Municipal Corporation,
Mangalwari Zone – 10, Public Works
Department, Near Police Chowki,
Chhaoni, Chhindwara Road, Nagpur

4. Ajay Gurudayal Batra
Aged about 50 years, Occu.Business
R/o. Winsha Tower, Raj Nagar,
Nagpur -- Respondents

Mr. R. M. Sharma, Advocate for Petitioners.
Mr. S. M. Puranik, Advocate for Respondent Nos.1 to 3.
Ms. Rashi Deshpande, Advocate for Respondent No.4.

**CORAM :- NITIN JAMDAR AND
ANIL S. KILOR JJ.**

DATE :- 15 JANUARY 2021

ORAL JUDGMENT : (Per Nitin Jamdar J.)

Heard learned counsel for the parties.

2. This Petition is filed by three tenants of premises which are situated at a building known as 'Surana Chambers', Corporation House No.362, Gandhi Chowk, Sadar, Nagpur. The Petitioners have challenged notice issued by the Respondent No.3 – Officer of the Nagpur Municipal Corporation on 08 May 2014 under Section 264 of the *Maharashtra Municipal Corporation Act*, stating that the structure has become dilapidated and the entire structure situated needs to be demolished.

3. In this Petition various orders have been passed from time to time and reports have been submitted in respect of the condition of the entire structure and also the premises in occupation of the Petitioners. By an interim order, status-quo has been granted. The last report which is on record is tendered by the Municipal Corporation of a Structural Consultant appointed, through Pursis dated 06 January 2021, which states that the premises are repairable.

4. It is informed that the Respondent landlord has filed suits for eviction bearing Regular Civil Suit Nos. 124/2013, 126/2013 and 137/2013 which are pending in the Small Causes Court, Nagpur against the Petitioners, on the ground that a structure has been dilapidated and notices have been issued by the local Authorities. The Petitioner No.2 has demolished the occupied structure herself by virtue of order of this Court. The Petitioners No.1 and 3 have continued to occupy the structure.

5. The learned counsel for the Respondent landlord and the learned counsel for the Municipal Corporation submits that the Respondent landlord will have no objection, if the status-quo granted in this Petition is continued in respect of Petitioner Nos.1 and 3, till the disposal of the suit bearing Regular Civil Suit Nos.124/2013 and

137/2013, which are pending in the Small Causes Court, Nagpur and the Petitioners can take all the contentions raised in this Petition in the eviction suit, meaning thereby the Petitioner No.1 and 3 can continue in possession till the final decision is rendered in the eviction suit filed. It also means that there will be no demolition till the suit is decided.

6. In view of the stand taken by the Respondents, it is not necessary to keep the Petition pending. The Petitioners as a defence in the suits, can take all such contentions which are raised in this Petition, such as malafides, colourable exercise of power, collusion and the condition of the premises, that the notices issued by the Respondent Corporation are not warranted and also the stand of the Corporation in the latest affidavit that the premises are repairable. Also it is equally open to the Respondent landlord to contest such assertions and it is open to the Small Causes Court to decide these contentions. It is open to the Petitioners and the Respondent landlord to rely upon the material which is part of the Writ Petition, in the proceedings pending before the Small Causes Court.

7. Status-quo granted in this Petition shall continue till the disposal of the Regular Civil Suit Nos. 124/2013 and 137/2013, instituted by the Respondent landlord against the

Petitioner Nos.1 and 3, which are pending in the Small Causes Court.

8. Writ Petition is disposed of as above. Rule is made absolute in above terms. No costs.

[ANIL S. KILOR, J.]

[NITIN JAMDAR, J.]