

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

PUBLIC INTEREST LITIGATION NO.80 OF 2017

Chichmalatpure Nagar Nagrik Kruti
Samiti

... Petitioner

- Versus -

The State of Maharashtra and others

... Respondents

Shri U.R. Phasate, Advocate for Petitioner.

Shri D.P. Thakare, Additional Government Pleader for
Respondent No.1.

Ms. Shiba Thakur, Advocate h/f Shri S.M. Ukey, Advocate for
Respondent No.2.

Shri G.A. Kunte, Advocate for Respondent No.3.

Shri F.T. Mirza, Advocate for Respondent No.4.

Shri S.A. Radke, Advocate for Respondent No.5.

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

DATE : 10 FEBRUARY 2021

P.C. :

This Public Interest Litigation is filed making a limited grievance that in the final layout plan in respect of Khasra Nos.62/1, 68/1, 67/2 and 69/1 of Mouza Manewada, Nagpur,

identity of which can be established by a tentative layout plan annexed at Annexure 4-A to the petition, there are four open spaces shown, but the Respondents have failed to maintain them as open spaces and the Respondent Nos.4 and 5 have encroached upon the same.

2) Shri Kunte, learned Counsel for the Respondent No.3, states that a tentative layout plan has been confirmed and four open spaces as shown in the map at Annexure 4-A are continued to be shown as open spaces. It is submitted that the applications made for regularization in respect of the encroachments have been rejected by the Planning Authority and the said fact is placed on record by way of affidavit dated 26/6/2019.

3) Shri Phasate, learned Counsel for the Petitioner, has relied upon Section 7 of the Maharashtra Gunthewari Developments (Regularisation, Upgradation and Control) Act, 2001 to contend that once an application for regularization is rejected, the Planning Authority must take action for removal of encroachments.

4) Shri Kunte, learned Counsel for the Respondent No.3, and Shri Mirza, learned Counsel for the Respondent No.4, submit that there are no such encroachments and the action of rejection of the applications for regularization is under challenge.

5) Be that as it may, once the Planning Authority, i.e. Nagpur Improvement Trust has confirmed that the layout plan has been sanctioned with four compulsory open spaces, it is the duty of the Planning Authority to ensure that they remain open spaces unless there is a change in the said layout.

6) We dispose of this Public Interest Litigation placing responsibility on the present Planning Authority, i.e. Nagpur Municipal Corporation to ensure that the four open spaces, which are earmarked as open spaces in the layout plan, remain as open spaces and necessary steps for the said purpose be taken within a period of six weeks, if not already taken. As regards individual rights of Respondent No.4 as may be available in law, the same are kept open.

7) Petition stands disposed of.

8) In view of the fact that this Public Interest Litigation has been entertained, the amount of rupees fifty thousand deposited by the Petitioner with the Registry of this Court, be refunded to the Petitioner.

(ANIL S. KILOR, J.)

(NITIN JAMDAR, J.)

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**Kamal
Jeswani**

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by Kamal
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