

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

WRIT PETITION NO. 977/2021

1. Prabhakar Shriram Tarale,
Aged 46 yrs, Occ - Business,
R/o Banosa, Gandhi Nagar,
Tq. Daryapur, Dist. Amravati.
2. Purushottam @ Manoj Ramchandra Tayde,
Aged @ 41 yrs, Occ – Business,
R/o Ganesh Laxmi Park, Banosa,
Tq. Daryapur, Dist. Amravati.

PETITIONERS

.....VERSUS.....

The Municipal Council, Daryapur,
through its Chief Officer, Tq. Daryapur,
Dist. Amravati.

RESPONDENT

Shri S.M. Vaishnav, counsel for the petitioners.
Shri M.I. Dhattrak, counsel for the respondent.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.
DATE : 28TH JUNE, 2022.

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

RULE. Rule made returnable forthwith and heard the learned
counsel for the parties.

2. The challenge raised in this writ petition is to the notice dated
16.02.2021 issued by the respondent through its Chief Officer calling
upon the petitioner to remove the alleged encroachment to the extent of

30 Meters X 40 Meters on the open land said to be owned initially by Shetkari and Ginning Society. One of the grounds of challenge raised by the petitioners was that time of twenty four hours was given to the petitioner to remove the alleged encroachment.

3. After hearing the learned counsel for the parties, the learned counsel for the respondent was directed to obtain instructions from the Chief Officer as to whether larger time could be granted to the petitioner to remove the encroachment which would enable the petitioner to respond to that notice in accordance with law.

Today, it is submitted by the learned counsel for the respondent that the notice dated 16.02.2021 would be withdrawn and a fresh notice would be issued to the petitioner in accordance with law.

4. In view of aforesaid, the notice dated 16.02.2021 is permitted to be withdrawn by the Municipal Council. It is free to take such steps as are permissible in law to remove the alleged encroachment after giving sufficient notice to the petitioner. All points raised in the petition challenging the legality of the notice dated 16.02.2021 are kept open. Needless to state that if the petitioners are aggrieved by the outcome of the subsequent notice, they are free to take such steps as are admissible in law.

5. Rule is disposed of in aforesaid terms. No costs.

(URMILA JOSHI-PHALKE, J.)

(A.S. CHANDURKAR, J.)

APTE