

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

MISC. CIVIL APPLICATION NO. 225 OF 2022

IN

WRIT PETITION NO. 3462 OF 2019

Shri Hanumantrao s/o Marotrao Kampellwar and anr.

Vs.

Nagpur Municipal Corporation, Nagpur and Ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. S.R. Deshpande, Advocate for petitioners.

CORAM : MANISH PITALE J.

DATE : 18.04.2022.

By this review application, the applicants are seeking review of the order dated 06.04.2022 passed by this Court in Writ Petition No.3462/2019 whereby the writ petition was dismissed.

2. It is contented that there is an error apparent on the face of record, inasmuch as the writ petition ought to have been directed to be placed before the Division Bench in view of the fact that this Court disagreed with the contentions of the applicants/original petitioners and upheld the orders passed by two Courts below, confirming that the appeal filed by the applicants was not maintainable before the two Courts below. In this regard, attention

of this Court was invited to Chapter XVII Rule 18 of the Bombay High Court Appellate Side Rules, 1960.

3. The learned counsel for the applicant fairly conceded that Sub-Rule 3 of Chapter XVII Rule 18 of the aforesaid Rules may cover the position regarding maintainability of the writ petition, insofar as the challenge to the concurrent orders passed by two Courts below is concerned. But, it was submitted that the implication of upholding the orders of the two Courts below was that the notice dated 10.10.2018 issued by the non-applicant/Corporation would then be amenable to challenge in the writ petition to be placed before the Division Bench of this Court. The aforesaid submission was also taken before the Court when the order dated 06.04.2022 was passed. This Court took note of the fact that the applicant had suppressed filing of two suits bearing Regular Civil Suit Nos.1237/2018 and 1238/2018 before the Court of Civil Judge Senior Division, Nagpur, to challenge the very notice dated 10.10.2018. It was only the respondents who brought the said fact to the notice of this Court. The aforesaid suits were filed and are pending and it is undisputed that the aforesaid remedy is invoked by the applicant himself against the said notice dated 10.10.2018. It was in this backdrop that this Court

observed that it cannot lie in the mouth of the applicants that now the writ petition ought to be placed before the Division Bench of this Court.

4. The learned counsel for the applicants sought to rely on a number of judgments to contend that the writ petition ought to have been directed to be placed before the Division Bench of this Court, insofar as the prayer pertaining to notice dated 10.10.2018 was concerned. The said submission was specifically rejected by this Court by order dated 06.04.2022, of which review is sought.

5. This Court is of the opinion that no ground for exercising review jurisdiction is made out, as no error apparent on the face of record is observed by this Court while considering the present review application.

6. Accordingly, the review application is dismissed.

7. Authenticated copy of this order be supplied to the parties.

JUDGE

Prity

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GABHANE

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