

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

WRIT PETITION NO. 6232 OF 2022

Sitaram s/o Kashinath Hedao vs. The Nagpur Improvement Trust and ors.

WRIT PETITION NO. 6239 OF 2022

Yusuf Bhai s/o Hamza Bhai Chimtanwala vs. The Nagpur Improvement Trust and ors.

WRIT PETITION NO. 6240 OF 2022

Vishnu Gopal s/o Shivlal Shahu vs. The Nagpur Improvement Trust and ors.

WRIT PETITION NO. 6242 OF 2022

Sitaram s/o Kashinath Hedao vs. The Nagpur Improvement Trust and ors.

WRIT PETITION NO. 6246 OF 2022

Vishnu Gopal s/o Shivlal Shahu vs. The Nagpur Improvement Trust 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. Palash Chakole, Advocate for petitioner/s in all
petitions.

CORAM : AVINASH G. GHAROTE J.

DATE : 10/10/2022

Heard Mr. Palash Chakole, learned counsel
for the petitioner/s. These petitions raised a common
question and therefore, are decided by this common
order.

2. By Notification dated 27.08.2019 all power
vested in Nagpur Improvement Trust (NIT) in relation to
planning *vis-a-vis* the areas which earlier stood vested in

the NIT, as specified in the Notification have been transferred in the Nagpur Municipal Corporation (NMC). This position was brought on record by an application under Order 1 Rule 10 of Civil Procedure Code, 1908 in appeal which was allowed by an order dated 01.04.2022 below Exh.22, whereunder the Court has considered the notification and the subject matter. Another application filed at Exh.23, seeking amendment regarding the transfer of powers as contemplated in the Notification dated 27.08.2019 came to be rejected on the ground that the Court by permitting addition of the NMC as a party respondent to the appeal has already recognized the position of the NMC being the planning authority in the matter in place of the NIT and therefore, there was no question of any amendment to reiterate this position as that did not reflect upon the merits of the matter.

3. Mr.Chakole, learned counsel for the petitioner further submits that since the presence of the NMC on account of the Notification dated 27.08.2019 has been recognized by the learned lower Court by order dated 01.04.2022 below Exh.22, it was necessary for the learned lower Court to allow the amendment.

4. I am afraid, I am not able to concede to this argument for the reason that what is sought to be brought to the notice of the Court is only a change of guard inasmuch as the NMC has been designated as a planning authority in place of the NIT by virtue of

Notification dated 27.08.2019 which position has already been recognized by the Court below by virtue of order dated 01.04.2022 below Exh.22 (page 33) and accordingly, the NMC has been permitted to be added as a party respondent in the appeal. That being the position the question of amendment of the plaint at the appellate stage does not arise at all, as the change of guard already stands recognized. I therefore, do not find any reason to interfere with the impugned orders. These petitions are without any merits, and accordingly dismissed. No costs.

JUDGE