

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

WRIT PETITION NO.6397 OF 2006

1. Shri Shyamsunder S/o of Daulatram
Bhambhawani, through LRs

1-A Shri Nilesh S/o Late Shri Shyamsunder
Bhambhawani
Aged about 32 years, Occ- Business,
R/o Latif Building, Residency Road, Sadar,
Nagpur 440001.

1-B Shri Mahish S/o Late Shri Shyamsunder
Bhambhawani
Aged about 28 years, Occ- Business,
R/o Latif Building, Residency Road, Sadar,
Nagpur 40001.

1-C Smt. Anupama W/o Late Shri Rakesh Kriplani
Aged about 28 years, Occ- Business, R/o
Aryanral Apartment, Opp. Nana-Nani Park,
Raj Nagar, Nagpur 440013.

...PETITIONERS

---VERSUS---

1. State of Maharashtra,
Through Urban Development Department,
Mantralaya, Mumbai
2. Nagpur Municipal Corporation, Through its
Commissioner, Nagpur
3. Assistant Director,
Town Planning, Nagpur Municipal
Corporation, Civil Lines, Nagpur

4. The Khatijabai Haji Ibrahim Tayyab Trust,
A Registered Trust under Bombay Public
Trusts Act, having its Registration No.100
Hamidiya Manzil, Sadar, Nagpur, through its
President Shri Tarique Ahmed S/o Shri
Majeed Ahmed, Aged about major,
Occupation: Business, R/o Aradhana Colony, ...RESPONDENTS
Raj Nagar, Katol Road, Nagpur 440013.

Ms M.D. Bhambhwani, Advocate for the petitioners.
Shri Amit Madiwale, AGP for respondent no.1.
Shri J.B. Kasat, Advocate for respondent nos.2 and 3.
Shri Piyush M. Shukla, Advocate for respondent no.4.

CORAM : AMIT BORKAR, J.
DATED : 14th JUNE, 2022.

ORAL JUDGMENT :

1. **Rule.** Rule is made returnable forthwith.
2. By the present petition, the petitioners, who are the adjoining owner of respondent no.4, are challenging the order dated 01.12.2006 passed in TPS-2406/2675/Prakaran No.241/06/Navi-9 by the Additional Principal Secretary, Urban Development Department, Mantralaya, Mumbai.
3. The petitioner no.1 is present in the Court and the present order has been passed on instructions from petitioner after taking instructions from all petitioners.

4. During the course of the hearing the learned Advocate for the respondent no.4 makes a statement that he has instructions from the respondent no.4 not to press application under Section 44 of MRTP Act dated 29.05.2004, save and except clause (c) and (f) of the impugned order dated 01.12.2006 granted by Additional Principal Secretary, Urban Development Department, Mantralaya, Mumbai.

5. In view of withdrawal of application, save and except relief in terms of clause (c) and (f) of the impugned order, nothing remains to be adjudicated in the present matter as the petitioners are not aggrieved by clause (c) and (f) of the impugned order.

6. It is clarified that all the observations made in the impugned order by the Appellate Authority in its order dated 01.12.2006 shall not come in the way of petitioners to adopt the appropriate remedies as are permissible in law.

7. It is also clarified that in future permission applied by the respondent no.4 in relation to property in dispute shall be decided as per law in existence on the date of decision of such permission. With the aforesaid clarification, the petition is disposed of.

8. Rule is made partly absolute in above terms. Pending civil application (s), if any, stand disposed of.

JUDGE

Wagh