

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

WRIT PETITION NO.8374 OF 2019

Vijay S/o Gowardhan Phulkar, Imamwada, Nagpur

-vs-

Corporation of City of Nagpur, Civil Lines, Nagpur Thr. The Municipal Commissioner and ors.

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

Court's or Judge's Orders.

Shri R. M. Sharma, Advocate for petitioners.
Shri S. M. Puranik, Advocate for respondent No.1 to 3.
Shri N. G. Mohrir, Advocate for respondent No.4.

CORAM : A. S. CHANDURKAR AND M. W. CHANDWANI, JJ.

DATE : October 20, 2022

The grievance of the petitioner is that the alleged encroachment committed by the respondent No.4 has not been removed despite notice issued on 05/02/2019 under Section 53(1) of the Maharashtra Regional and Town Planning Act, 1966 to the respondent No.4.

In the reply filed by the Municipal Corporation it has been stated in paragraph 4 that the encroachment in question leading to the public well has been removed on 10/12/2019 and thereafter there is no encroachment on the said piece of land.

By filing a counter affidavit, the petitioner has denied the aforesaid contention. It is stated that only a small way has been cleared and the notice in its entirety has not been executed.

According to the respondent No.4, the petitioner has a

grudge against him and hence has made several complaints in that regard against him.

We find that there are disputed questions as regards the compliance of the notice dated 05/02/2019. While the Municipal Corporation avers that the encroachment in question has been removed, some grievance of the petitioner still remains.

In these facts, liberty is granted to the petitioner to move a fresh representation to the Municipal Corporation if he finds that there is any encroachment committed by the respondent No.4 or that the notice in question has not been fully executed. If such representation is made, the Municipal Corporation through its Competent Authority shall consider the same and take a decision thereon in accordance with law.

With these observations, the writ petition is disposed of.

No costs.

(M. W. Chandwani, J.)

(A. S. Chandurkar, J.)

Asmita