

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

WRIT PETITION NO.3567 of 2023

Sulochana Anil Patil and others.

vs.

The State of Maharashtra, through its Secretary, Urban Development Department and anr.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.T.Chavhan, Advocate for petitioners.

Ms N. P. Mehta, Assistant Government Pleader for respondent no.1.

Shri G.A.Kunte, Advocate for respondent no.2.

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE :- 13th JUNE, 2023

Heard.

2. It is the case of the petitioners that they are residing at the address mentioned in the cause title of the writ petition since long and they are paying municipal taxes to the Nagpur Municipal Corporation., It is their grievance that the hutments occupied by them have been illegally demolished by the Nagpur Improvement Trust thereby causing great prejudice to them. In the aforesaid backdrop, the petitioners have made the following prayers in the writ petition:

“(I) Issue appropriate writ, order or direction thereby direct to the respondent no.2 to restore possession of the petitioners.

(II) Direct the respondent no.2 to allot the plot to the possessor of the plot.

(III) Grant any other relief which this Hon’ble Court deem fit and proper in the facts and circumstances of the present case.”

3. Shri G.A.Kunte, learned counsel for the respondent no.2 submits that the petitioners have admitted the ownership of the Nagpur

Improvement Trust in paragraph 2 of the writ petition. The documents on record as filed do not indicate that the petitioners are either allottees or authorized occupants of the respective hutments. While removing encroachment, all necessary steps have been taken.

4. After hearing the learned counsel for the parties and after perusing the documents on record including the Government Resolution dated 22.07.2014 and 16.05.2015, we find that there are various disputed questions that arise for adjudication. Unless the entitlement of the petitioners to the right of restoration of possession is established, the reliefs prayed for cannot be granted to them. It would be necessary for the petitioners to first establish their legal rights by producing necessary documents and leading evidence. We are not inclined to conduct this exercise in writ jurisdiction.

5. With liberty to the petitioners to approach the Civil Court to have their legal rights adjudicated, the writ petition is not entertained. It is accordingly disposed of. All points raised in the writ petition are kept open.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar.