



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

WRIT PETITION NO. 5435 OF 2023

Tirumala Buildcon,
A Partnership Firm
having its office at Nagpur,
through Partners.

- 1) Akash s/o Naresh Patil,
Aged about 34 years, Occ. - Business,
R/o Plot No.76, Abhyankar Nagar,
Nagpur – 440010.
through Power of Attorney
Shri Abhishek s/o Naresh Patil.
- 2) Shri Abhishek s/o Naresh Patil,
Aged about 38 years, Occ.- Business,
R/o Plot No.76, Abhyankar Nagar,
Nagpur - 440010.
- 3) Shri Sandeep s/o Ratnakar Durugkar,
Aged about 47 years, Occ. - Business,
R/o 273, Vrindavan Apartment,
Laxminagar, Nagpur – 440022.

.... **PETITIONERS**

VERSUS

- 1) Nagpur Improvement Trust,
through its Chairman,
Office at Station Road, Sadar, Nagpur.
- 2) Building Engineer (West),
Nagpur Improvement Trust,
Office at Station Road, Sadar, Nagpur.

.... **RESPONDENTS**

Mr. P.R. Agrawal with Mr. S.R. Jaiswal, Counsel for the petitioners,
Mr. G.A. Kunte, Counsel for respondent Nos.1 and 2.

CORAM : A.S. CHANDURKAR AND
MRS. VRUSHALI V. JOSHI, JJ.
DATED : 27th SEPTEMBER, 2023

ORAL JUDGMENT : (PER : A.S. CHANDURKAR, J.)

Rule. Rule made returnable forthwith. Heard finally with the consent of the learned Counsel for the parties.

2. The challenge raised is to the order dated 08-9-2022 issued by the Building Engineer (West) of the Nagpur Improvement Trust thereby rejecting the building plan of the petitioners seeking development work in the context of Plot No. 59 admeasuring about 229.5000 square meters of Mouza-Sonegaon.

3. After hearing the learned Counsel for the parties, we find that similar issue has been considered by this Court in Writ Petition No.8285/2022 (Kartiki d/o Jagdish Pawar and another vs. Nagpur Improvement Trust and another) decided on 14-2-2022. We find that the rejection of the building permit on similar ground was set aside in the light of discussion in paragraph Nos. 8 and 9 of the said judgment. The plot in question is already regularized by the Development Authority and we find that the petitioners would be entitled to the benefit of aforesaid decision.

4. Accordingly for reasons recorded in the decision *Kartiki Jagdish Pawar* (supra), the order dated 08-9-2022 passed by the Building Engineer (West), Nagpur Improvement Trust is set aside. The respondents shall reconsider the said proposal and take a decision subject to all necessary considerations. The said decision shall be taken within a period of eight weeks of receiving copy of the judgment.

5. Rule is made absolute in aforesaid terms. No costs.

(Mrs. Vrushali V. Joshi, J.)

(A.S. Chandurkar, J.)

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