



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

WRIT PETITION NO. 5490 OF 2023

- 1) Dr. Shri Omprakash s/o Ramkisan
Bohra, Aged about 69 years,
Occupation – Medical Practitioner.
- 2) Dr. Shri Ashish Omprakash Bohra,
Aged about 37 years,
Occupation – Medical Practitioner.

Both R/o Near Juna Theatre,
Gawalipura, Post – Paratwada,
Achalpur, District – Amravati-
444 806.

.... **PETITIONERS**

VERSUS

- 1) State of Maharashtra,
through Secretary, Urban Development,
Mantralaya, Mumbai.
- 2) The Nagpur Improvement Trust,
through its Chairman,
Station Road, Sadar, Nagpur.

.... **RESPONDENTS**

Mr. P.S. Chawhan, Counsel for the petitioners,
Mr. H.D. Marathe, AGP for respondent No.1,
Mr. G.A. Kunte, Counsel for respondent No.2.

CORAM : A.S. CHANDURKAR
& ABHAY J. MANTRI, JJ.
DATED : 2nd NOVEMBER, 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 11-5-2022 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 Nos. 58 and 59 admeasuring about 279.354 square meters of Mouza-Somalwada.

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 plots in question are 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 in *Kartiki Jagdish Pawar* (supra), the order dated 11-5-2022 passed by the

Building Engineer (West), Nagpur Improvement Trust is set aside. Respondent No.2 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.

(ABHAY J. MANTRI, J.)

(A.S. CHANDURKAR, J.)

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