

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

WRIT PETITION NO.4592 OF 2023

Vikas Rameshchand Jain, Near Sangh Building, Mahal, Nagpur

-VS-

State of Maharashtra, Thr. Secretary, Urban Development Dept. Mantraya, Mumbai and anr.

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

Court's or Judge's Orders.

Shri S. M. Puranik, Advocate for petitioner.
Smt S. S. Jachak, Assistant Government Pleader for respondent No.1.
Shri M. I. Dhatrak, Advocate for respondent No.2.

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

DATE : July 24, 2023

P. C.

1. Rule. Rule made returnable forthwith.
2. Learned Assistant Government Pleader waives notice for respondent No.1. Shri M. I. Dhatrak, learned counsel waives notice for respondent No.1.
3. Heard.
4. The petitioner claims to be the auction-purchaser of the house standing on City Survey No.2054/1 Mouza Ramtek that was stated to be owned by one Shri Prasanna Suresh Turak. Since the said owner defaulted in repaying the amount of loan, proceedings under Section 13 (2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 were initiated by the Creditor. In those proceedings public auction was held on 20/03/2023. The petitioner as the highest bidder was held entitled to purchase the said property. Sale-deed in favour of the petitioner was executed on 20/07/2023. On the same day, the Chief Officer of Municipal Council, Ramtek passed an order in which it is stated that such steps be taken to remove the alleged unauthorised

construction at the said premises on 22/07/2023. The petitioner on receiving the said order made a request to the Municipal Council to grant some time to take appropriate steps in the matter. In this backdrop the petitioner has approached this Court seeking to challenge the order dated 20/07/2023.

5. Shri M. I. Dhatrak, learned counsel appearing for respondent No.2 on instructions submits that the Chief Officer has passed an order on 21/07/2023 in which it has been stated that an opportunity of hearing would be granted to the petitioner before proceeding further with the order dated 20/07/2023. The said order is taken on record and marked 'A' for identification.
6. In view of aforesaid, the apprehension expressed by the petitioner that the action that was to be taken pursuant to the order dated 20/07/2023 without hearing him is taken care of. In these facts the following order would serve the interests of justice :-
 - (a) In terms of the order dated 21/07/2023 the Municipal Council shall grant an opportunity to the petitioner to put forth his case with regard to order dated 20/07/2023.
 - (b) The petitioner shall be heard by the Chief Officer in the said matter. In case any decision adverse to the interest of the petitioner is taken, same shall not be implemented for a period of ten days from communication of the said decision.
 - (c) By clarifying that this Court has not examined the merits of challenge as raised and keeping all points open, the writ petition is disposed of. Rule accordingly. No costs.

(Mrs Vrushali V. Joshi, J.)

(A. S. Chandurkar, J.)