

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

WRIT PETITION NO.4909 OF 2023

M/s Nani's Buildcon Pvt. Ltd.  
Through its Director  
Mr Yashwant s/o Ajabrao Khodke,  
Aged : 58 years, Occ. Business  
r/o Plot No.7, Vikas Nagar,  
Behind Sai Mandir, Vivekanand Nagar,  
Nagpur 440015

... Petitioner

-vs-

1. Nagpur Improvement Trust,  
through its Chairman having office  
at : Station Road, Sadar, Nagpur 01

2. Building Engineer (West)  
Nagpur Improvement Trust,  
Nagpur

... Respondents

Shri V. S. Giramkar, Advocate for petitioner.  
Shri G. A. Kunte, Advocate for respondents.

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

DATE : August 07, 2023

Oral Judgment : (Per : A. S. Chandurkar, J.)

Rule. Rule made returnable forthwith. Shri G. A. Kunte, learned counsel waives notice for the respondents.

2. Challenge raised in the present writ petition is to the communication dated 20/07/2023 by which the respondent No.2 has refused to grant permission for amalgamation of plot Nos.163 and 154 situated at Khasra No.9, Mouza Sonegaon in view of the interim orders

passed in Public Interest Litigation No.40/2023 (*Court on its own motion vs. State of Maharashtra and ors.*) holding that it would not be permissible to grant sanction for development.

3. The learned counsel for the parties submit that an identical issue was considered in Writ Petition No.8285/2022 (*Kartiki d/o Jagdish Pawar and anr. vs. Nagpur Improvement Trust and anr*) and by judgment dated 14/02/2023 a similar communication was set aside with a direction to consider and grant sanction in favour of the said petitioners.

4. It is seen that regularisation letter for plot No.153 came to be granted on 27/05/2011 and for plot No.154 it was granted on 20/09/2016 subject to complying with necessary conditions. Subsequently the petitioners have also obtained no-objection certificate from Airport Authority of India on 06/05/2022. The interim order passed in the Public Interest Litigation No.40/2013 referred in the impugned communication has been clarified by the subsequent orders dated 06/02/2019 and 10/07/2019.

5. In view of aforesaid, for the reasons contained in the judgment of this Court in Writ Petition No.8285/2022 (*supra*) the following order is

passed :

- (i) The impugned communication dated 20/07/2023 is set aside since the interim order in Public Interest Litigation No.40/2013 is not applicable to the plots in question.
  - (ii) The respondents shall consider the petitioners' application for amalgamation dated 02/06/2023 and if there is no legal impediment grant necessary permission in accordance with law. Necessary exercise shall be done within a period of eight weeks of receipt of copy of this judgment.
6. Writ Petition is allowed and disposed of in aforesaid terms. Rule accordingly. No costs.

(Mrs Vrushali V. Joshi, J. )

(A. S. Chandurkar, J.)