

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

WRIT PETITION NO.8617 OF 2022

Lokesh S/o Nandram Raipure and another .Vs. Nagpur Improvement Trust and
another

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

Court's or Judge's Order

Shri S.V. Bhutada, Advocate for the petitioners.

Shri K.P. Mahalle, Advocate for the respondents.

CORAM : ANIL S. KILOR, J.

DATED : 02/05/2023

1. Heard.

2. In the present writ petition the respondents/Nagpur Improvement Trust under Section 53 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as “the MRTTP Act”) to the petitioners. After receiving the said notice a suit was filed namely Regular Civil Suit No.214 of 2022 with the application for temporary injunction vide Exh.5, the same came to rejected vide order dated 05.05.2022.

4. Feeling aggrieved by the same, the petitioners preferred Misc. Civil Appeal No. 102 of 2022 before the District Judge-10 & A.S.J., Nagpur. The said appeal came to be dismissed by order dated 22.08.2022. Hence, this writ petition.

5. The learned counsel for the petitioners submits that after receiving the notice under Section 53 of the MRTP Act, he moved an application for revision of plan under Section 44 of the MRTP Act and few days before, the same was rejected. He, therefore, submits that in the change circumstances, he may be permitted to withdraw the present writ petition.

6. It is pertinent to note here that in paragraph 14 of the impugned judgment and order, one of the reasons for rejecting the appeal was that the application for revision of plan under Section 44 of the MRTP Act, was pending.

7. Thus, after the decision on the said application, the petitioners wants to take necessary steps in the suit by moving necessary application/applications including fresh application for grant of temporary injunction as permissible under the law.

8. In that view of the matter, the writ petition is **disposed of** with liberty to the petitioners to file appropriate proceeding/application including fresh application for grant of temporary injunction as permissible under the law before the trial Court or appropriate authority, in light of subsequent events i.e. rejection of application for revision of plan.

9. Needless to mention that all the points are kept open.

10. At this stage, the learned counsel for the petitioners states that for moving such application and taking necessary steps, it would take some time and considering the ensuing vacation which would begin from 07.05.2023 and will continue till 04.06.2023, it would be difficult to make any such prayer for grant of temporary injunction. He, therefore, submits that the petitioners may be protected till reopening of the Courts.

11. Considering the difficulty expressed by the learned counsel for the petitioners and as till last week, the application under Section 44 of the MRTTP Act was pending, I am of the opinion that no prejudice will be caused to the respondents/trust, if the protection is granted till 06.06.2023. Accordingly, the respondents/trust is directed not to take coercive action against the petitioners till 06.06.2023.

12. From 07.06.2023 the *interim relief* would come to an end. It is further made clear that on any count, the interim protection will not be extended or continued after 06.06.2023.

13. The trial Court may decide the application for temporary injunction if any moved by the petitioners on its own merit without influenced by the order passed by this Court or the judgment and order passed by the appellate Court.

JUDGE