

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

Writ Petition (WP) No. 5152 of 2017

The Commissioner, Nagpur Municipal Corporation, Civil Lines, Nagpur

Versus

Shri Ramesh Nagorao Pise and another

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

Court's or Judge's Order

Mrs. Sangeeta Jachak, Advocate for the petitioner.

Shri J.M.Gandhi, Advocate for the respondent.

CORAM : ANIL S. KILOR, J.

DATED : 12th JUNE, 2023.

In this writ petition, the petitioner issued a notice dated 6th August, 2016 under 53(1) of Maharashtra Regional and Town Planning Act, 1966 (in short hereinafter referred as “Act, 1966”) for removal of illegal construction as mentioned in notice dated 6th August, 2016.

2. The same was made the subject matter in Regular Civil Suit No. 967 of 2016 filed by the respondent No.1. alongwith application Exhibit 5 for temporary injunction.

3. The learned trial Court vide order dated 9th November, 2016 allowed the application Exhibit 5 and

thereby restrained the petitioner from demolishing the said construction as mentioned in the impugned notice dated 6th August, 2016.

4. Feeling aggrieved by the same, the petitioner carried Misc. Civil Appeal No. 121 of 2017, the said appeal came to be dismissed vide judgment and order dated 3rd May, 2017, which is the subject matter of the present writ petition.

5. The present writ petition was filed on 1st August, 2017 after the period of three months from the date of impugned order passed by the learned Appellate Court.

6. This Court on 4th August, 2017 issued a notice and stayed the further proceeding of the suit. However, no stay was granted to the impugned judgment and order passed by the learned Lower Appellate Court. This petition is pending for six years and the effect of the same is that a temporary injunction order is operating in favour of the respondent no.1.

7. In the circumstances, I am of the opinion that without going into the merits of the matter, the purpose would be served if the trial Court is directed to decide the suit including the objection, if any, raised by the petitioner by filing appropriate application to the

tenability of the suit as argued by the petitioner before this Court, within stipulated period.

8. Both the parties have no objection for such directions. Accordingly, I pass the following order.

i. Writ petition is disposed of with a direction to the learned trial Court to decide Regular Civil Suit No. 967 of 2016 within nine months from today.

[ANIL S. KILOR, J.]