

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
WRIT PETITION NO. 6112 OF 2022**

1. Amol S/o Purushottam Patil,
Aged about 45 years, Occ. Business
2. Abhilash S/o Purushottam Patil,
Aged about 40 years, Occ. Business
3. Vaishali D/o Purushottam Patil,
Aged about 38 years, Occ. Household
(through her POA P.No.5)
4. Rohini D/o Purushottam Patil,
Aged about 35 years, Occ. Household,
(through her POA P.No.5)
5. Suman Wd/o Purushottam Patil,
Aged about 65 years, Occ. Household,
All the petitioners are residents of L-91,
behind Chokhamela Hostel, Vasant
Nagar, Nagpur

...Petitioners

// VERSUS //

1. Smt. Rasul B. Abdul Rafiq,
Aged about 57 years, Occ. Household,
R/o Plot No. 52/A, Sartaj Colony,
Ashirvad Colony, Tajbagh, Nagpur
2. Shri Ashok Harishchandra Patil,
Age : Major, Occ. Not known
3. Smt. Suman Harishchandra Patil,
Age : Major, Occ. Not known
4. Smt. Alka Harishchandra Patil,
Age : Major, Occ. Not known
5. Smt. Rekha Harishchandra Patil,
Age : Major, Occ. Not known,
6. Smt. Sushila Harishchandra Patil,
Age : Major, Occ. Not known

7. Smt. Vithabai Harishchandra Patil,
Age : Major, Occ. Not known

The respondent nos. 2 to 7 are residents of MHADA Complex, Near Bhole Petrol Pump, Amravati road, Nagpur

8. Tahsildar Nagpur (Gramin), Nagpur
9. Revenue Inspector, Mouza Besa, P.H.No.39, Khasra No. 39/1, 39/2 & 39/3, Tahsil Office, Nagpur (Rural), Nagpur
10. Talathi,
Mouza Besa. P.H.No.39, Khasra No. 39/1, 39/2 & 39/3, Tahsil Office Nagpur (Rural), Nagpur
11. Sub Divisional Officer, Nagpur (Rural), Nagpur

... Respondents

Shri P.V.Vaidya, Advocate for the petitioners.

Shri K.L.Dharmadhikari, AGP for the respondent nos. 8,9 and 11.

Shri A.D.Dangore, Advocate for the respondent no.1.

CORAM : ANIL S. KILOR, J.

DATED : 23rd FEBRUARY, 2023.

ORAL JUDGMENT :

Heard. Rule. Rule made returnable forthwith heard finally by consent of the parties.

2. In this writ petition, the challenge is raised to the order dated 27th September, 2022, passed by Sub-Divisional Officer, Nagpur (Rural), Nagpur rejecting the applications moved by the petitioners to dismiss the

appeal preferred by the respondent no.1 on the grounds mentioned in those applications.

3. The only ground on which the challenge is raised to the said order is that without hearing the petitioners, the said order came to be passed.

4. Learned counsel for the respondent no.1/appellant before the Sub-Divisional Officer is not disputing the said fact but it is submitted that the learned counsel for the petitioners was present before the Sub-Divisional Officer on 27th September, 2022, however, he sought time which was denied by the Sub-Divisional Officer and rejected the applications filed by the petitioners.

5. In the circumstances, as it is evident from the record that without granting fair opportunity to the petitioners, both the applications had been decided by the Sub Divisional Officer vide order dated 27th September, 2022, I am of the opinion that without going into the merits of the present matter, it can be disposed of by remanding the same to the Sub Divisional Officer, Nagpur (Rural), Nagpur to decide both the applications afresh after hearing both the parties. Accordingly, I pass the following order.

i. Writ petition is partly allowed;

- ii. Order dated 27th September, 2022 passed by the Sub Divisional Officer, Nagpur (Rural), Nagpur is hereby quashed and set aside.
- iii. The matter is remanded back to the Sub Divisional Officer, Nagpur (Rural), Nagpur to decide both the applications afresh after hearing both the parties.
- iv. Parties shall appear before the Sub Divisional Officer, Nagpur (Rural), Nagpur on **13th March, 2023** at 3 p.m.

[ANIL S. KILOR, J.]

SACHINDANAND
K NAIR

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by
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Date: 2023.03.02
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