



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

WRIT PETITION NO. 6733 OF 2023

- 1) Vinayak s/o Tukaram Hiware,
Aged about 84 years, Occupation – Nil.
- 2) Mangala w/o Vinayakrao Hiware,
Aged about 72 years, Occupation – Nil.

Both R/o Vaishanavi Apartment,
1st Floor, Paryawaran Nagar,
Nagpur – 440026.

.... **PETITIONERS**

VERSUS

- 1) Nagpur Improvement Trust,
through its Chairman,
Office at Station Road, Sadar, Nagpur.
- 2) Building Engineer (West),
Nagpur Improvement Trust, Office
at Station Road, Sadar, Nagpur.

.... **RESPONDENTS**

Mr. P.R. Agrawal, Counsel for the petitioners,
Mr. G.A. Kunte, Counsel for the respondents.

CORAM : A.S. CHANDURKAR
& ABHAY J. MANTRI, JJ.
DATED : 2nd NOVEMBER, 2023

ORAL JUDGMENT : (PER : A.S. CHANDURKAR, J.)

Rule. Rule made returnable forthwith. Heard finally with the

consent of the learned Counsel for the parties.

2. The challenge raised is to the order dated 26-7-2023 issued by the Building Engineer (West) of the Nagpur Improvement Trust thereby rejecting the building plan of the petitioners seeking development work in the context of Plot No. 3 admeasuring about 5000 square feet of field Survey No.524, P.H.N. 44 of Mouza-Somalwada.

3. After hearing the learned Counsel for the parties, we find that similar issue has been considered by this Court in Writ Petition No.8285/2022 (Kartiki d/o Jagdish Pawar and another vs. Nagpur Improvement Trust and another) decided on 14-2-2022. We find that the rejection of the building permit on similar ground was set aside in the light of discussion in paragraph Nos. 8 and 9 of the said judgment. The plot in question is already regularized by the Development Authority and we find that the petitioners would be entitled to the benefit of aforesaid decision.

4. Accordingly for reasons recorded in the decision in *Kartiki Jagdish Pawar* (supra), the order dated 26-7-2023 passed by the Building Engineer (West), Nagpur Improvement Trust is set aside. The respondents shall reconsider the said proposal and take a decision

subject to all necessary considerations. The said decision shall be taken within a period of eight weeks of receiving copy of the judgment.

5. Rule is made absolute in aforesaid terms. No costs.

(ABHAY J. MANTRI, J.)

(A.S. CHANDURKAR, J.)

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