

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

Writ Petition No. 6584 of 2022

[Shri Anil S/o Yadavrao Umredkar ..vs.. Nagpur Municipal Corporation, through its Commissioner and ors.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R. S. Charpe, Advocate for the petitioner
Mr. S. M. Puranik, Advocate for respondents 1 to 3
Mr. H. R. Gadhia, Advocate for respondent 4

**CORAM : ROHIT B. DEO AND
M. W. CHANDWANI, JJ.**

DATED : 18-07-2023

The relief which is sought in the petition is direction to respondent 4 to stop the illegal construction at Khasara 239, House 1031 situated in Ward 37 of Mouza Nagpur.

2. The Nagpur Municipal Corporation (NMC) has filed affidavit dated 10-7-2023, paragraphs 4 to 10 of which read thus :

“4. It is submitted that on 04.06.2020 respondent no 3 received a complaint from Rampeth Kruti Samiti regarding the illegal and unauthorized construction being carried out by respondent no 4. Similarly, on 25.10.2021 the petitioner and his brother – Deepak Umredkar too had lodged a complaint about the said construction.

5. The answering respondents had issued a communication dated 15.02.2022 to

Shri. Praful Hemraj Ganatra, Director, Navaratra Medical Hospital and Research Centre and directed him to submit the sanctioned building plan and ownership documents of the building under construction. However, Shri. Ganatra failed to submit the documents sought by answering respondents.

6. It is submitted that the officials of NMC carried out a spot inspection of the site on 03.03.2022. After inspecting the said building under construction it was found that as much as 526.50 Sq Mtrs excess construction was made by the respondent no 4. Accordingly, a proposal was sent to the Competent Authority under the Slums Act for issuing notice under section 3Z-1 of the said Act.

7. The Competent Authority (Slums) upon considering the aforesaid proposal had issued a notice under section 3Z-1 of the Slum Act, 1971 to respondent no 4 for demolishing the unauthorized construction made by it. Respondent no 4 had raised his objection to the said notice before the Competent Authority (Slum). During the pendency of the said objection respondent no 4 had submitted a revised building plan to the Town Planning Department, who had on 25.08.2022 sanctioned the said revised plan. On the basis of this sanctioned plan respondent no 4 had withdrawn its objection to the section 3Z-1 notice filed before the Competent Authority (Slums). The same was permitted by the said authority on 05.12.2022.

8. It is submitted that the answering respondents had carried out an inspection of the construction made by respondent no 4

after the revised building plan was sanctioned by the Town Planning department. On inspecting the building it was found that respondent no 4 had made excess construction of 58.21 Sq Mtrs on the ground floor. Similarly, there was excess construction of 37.38 Sq Mtrs on the first, second, and third floors totaling 112.14 Sq Mtrs.

9. Similarly, respondent no 4 has made construction on the fourth and fifth floors admeasuring 104.85 Sq Mtrs and 60.75 Sq Mtrs respectively without any permission from the Competent Authority. Thus respondent no 4 has made the construction of approximately 335.95 Sq Mtrs in excess of the revised sanctioned plan. Accordingly, the Competent Authority (Slum) had issued a notice under section 3Z-1 of the Slums Act to respondent no 4 dated 26.06.2023 urging it to demolish the excess construction made. A true copy of the said notice is annexed herewith as ANNEXURE-R-1, to this reply affidavit.

10. Thus it is evident that the answering respondents have initiated action against the respondent no 4 for constructing 355.95 Sq Mtrs in excess of sanctioned revised plan and would take it to its logical end. It needs to be mentioned here that the respondent no 4 has not put the new building for any use so far.”

3. Along with the affidavit in response, the statutory notice dated 26-6-2023 is placed on record.

4. Considering that the NMC is proceeding in the matter in accordance with law, we dispose of the petition by directing the NMC to conclude the proceedings initiated pursuant to the notice dated 26-6-2023, within the next eight weeks.

5. Compliance report shall be filed by the NMC in the Registry of this Court.

6. Till the proceedings are taken to the logical end, either way, there shall be no activity whatsoever from the property which is the subject matter of the show cause notice.

(M. W. Chandwani, J.)

(Rohit B. Deo, J.)

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