

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

WRIT PETITION NO.7211 OF 2022

Petitioners : 1] Smt. Chanda Padmakar Daterao,
 Age @ 62 Yrs., Occ. Household.
 2] Yogendra Padmakar Daterao,
 Age @ 42 Yrs., Occ. Business.
 3] Virendra Padmakar Daterao,
 Age @ 40 Yrs., Occ. Business.
 All R/o. Shivchaya Colony, Shankar Nagar Road,
 Amravati, Tq. & Dist. Amravati.
 – Versus –
Respondent : The Amravati Municipal Corporation,
 through its Commissioner,
 Rajkamal Square, Amravati,
 Tq. and Dist. Amravati.

 Mr. S.M. Vaishnav, Advocate for the Petitioners.
 Mr. R.D. Dharmadhikari, Advocate for the Respondent.

CORAM : **ROHIT B. DEO AND Y.G. KHOBRADE, JJ.**
DATE : **13th FEBRUARY, 2023.**

J U D G M E N T : (Per Rohit B. Deo, J.)

Rule. Rule made returnable forthwith. Heard finally with the consent of the learned Counsel for the parties.

02] The limited grievance of the petitioners is that since the order impugned dated 18/02/2020 was rendered by the respondent-Municipal

Corporation without hearing the petitioners, the order impugned may be set aside with a direction to the respondent-Corporation to hear the petitioners before considering the cancellation of the development permission dated 16/10/1998 and 02/06/2000.

03] We passed the following order on 23/01/2023 :

“The averment in the petition is that before cancellation of the development permission, the petitioner was not heard.

2. Stand over to 30.01.2023.

3. If further time is required, we may grant time to file affidavit in response. However, on the next date of hearing, we expect the learned counsel for the Amravati Municipal Corporation to respond to the averment in the petition that there was no hearing.”

04] The Municipal Corporation has filed an affidavit in response. Insofar as the submission that the petitioners were not heard, the stand of the Municipal Corporation is that the mother of the petitioners 2 and 3 was aware of the proceedings initiated by the Commissioner. However, the respondent-Corporation does not dispute that at the relevant time, when the Corporation issued notice, the petitioners 2 and 3 were in judicial custody.

05] Learned Counsel Mr. Vaishnav invites our attention to the notice dated 18/09/2019 to buttress his submission that the notice of hearing is issued only to petitioner No.2-Yogendra Padmakar Daterao, who is one of the three joint owners of the subject property, and who, as is admitted now by the Municipal Corporation, was in judicial custody at the relevant time. In view of the incontrovertible position on the record, notwithstanding that the learned Counsel for the Municipal Corporation Mr. Dharmadhikari is opposing the submission that the petitioners are not heard, we are inclined to set aside the order impugned.

06] The order impugned is set aside. If so advised, the Municipal Corporation may initiate fresh action after issuing notice to all the petitioners and needless to say after granting an opportunity of hearing. The petition is allowed in the aforestated terms.

07] Rule is made absolute with no order as to costs.

(Y.G. KHOBRADE, J.)

(ROHIT B. DEO, J.)

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