

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

WRIT PETITION (WP) 3054/2018

Abdul Hamid S/o Usman Saheb Loni,
Aged about 65 Years, Occ. Retired,
R/o 6/B, Yogendra Nagar, Zingabai Takli,
Nagpur – 13.

..... PETITIONER

// VERSUS //

1. Nagpur Improvement Trust,
Through its Chairman, Station Road,
Sadar, Nagpur.
2. State of Maharashtra through
its Principal Secretary, Department of
Urban Land Development, Mantralaya,
Mumbai – 32.

.... RESPONDENT(S)

Mr. A.P. Rathute, Advocate for the petitioner
Mr. G.A. Kunte, Advocate for respondent 1
Mr. M. K. Pathan, AGP for respondent 2

**CORAM : ROHIT B. DEO AND
Y.G. KHOBRAGADE, J.J.**

DATED : 03/02/2023

ORAL JUDGMENT : (PER:- Y.G. KHOBRAGADE, J.)

Heard.

2. **Rule.** Rule made returnable forthwith. With the consent of
both the sides the matter is heard finally at the stage of admission.

3. The petitioner, by way of present petition, is seeking direction to the respondent – Trust for regularization of his plot No. 6 situated at Khasara No. 282, Mauza Zingabai Takli, in layout developed by Prashant Sahakari Gruh Nirman Sanstha, Nagpur on charging development charges at the rate of Rs.16/- per square feet under Scheme of Regularization of 572 Layouts as per Government Resolution dated 10.05.2012.

4. We have heard both the sides. We have gone through the record. The respondent 1 filed reply affidavit and did not dispute the deposit made by the petitioner of Rs.1000/- towards processing and scrutiny charges in respect of plot in question and submission of application for regularization of his plot under the Scheme of Regularization of 572 Layouts in pursuance of Government Resolution dated 10.05.2012 by the State Government.

5. The contention of respondent 1 is that on 23.09.2015 the petitioner had submitted an application and in reply it was communicated that the building plan submitted alongwith the application was not in scale and there is difference in actual construction and the map submitted by the petitioner. Therefore, the petitioner was called upon to submit proper site map from the Surveyor and as per the

policy decision of respondent 1, a demand note dated 26.10.2015 was issued.

6. On the face of record, it prima facie appears that on 25.09.1987, the petitioner purchased the plot in question from Maroti Umrao Gurghate which is situated at Mauza Zingabai Takli in the layout developed by Prashant Sahakari Gruh Nirman Sanstha, Nagpur. The respondent 1 admitted deposit of Rs.1000/- towards processing and scrutiny charges on 03.04.2001 and the application for regularization of the plot as per Government Resolution dated 10.05.2012. The petitioner alleged that the concerned clerk of respondent 1 misplaced his application for regularization and receipt of payment of processing and scrutiny charges were not traced out, the petitioner cannot be faulted. The petitioner contended that the other plots holders, from the layout of Prashant Sahakari Gruh Nirman Sanstha, Nagpur, who had submitted the applications for regularization of their plots received demand note at the rate of Rs.16/- per square feet and though, the petitioner submitted an application alongwith other plot holders, but the concerned clerk/officer of respondent 1 misplaced his application and the receipt of deposit made by him and due to the lapse on the part of respondent's employee, he has been deprived of the facilities of deposit of development charges at the rate of Rs.16/- per square feet under

regularization of 572 unauthorized layouts as per Government Resolution dated 10.05.2012 and when the petitioner made the representation on 13.10.2015, the respondent 1 directed the petitioner to deposit the demand note of Rs.1,21,052/- at the rate of Rs.50/- per square feet for development plot and Rs.6/- per square feet for construction raised on the plot on or before 25.01.2016.

7. The petitioner can not be faulted. He submitted the application for regularization of plot under scheme of "572 Layouts" dated 03.04.2001 and deposited processing / scrutiny charges for which respondent 1 issued the receipt. Due to the lapse on the part of employee of respondent 1, no demand note alongwith other plot holders was issued. Since, respondent 1 failed to take action on the application dated 03.04.2001 submitted by the petitioner for regularization of his plot in question, the petitioner cannot be held responsible and the petitioner is entitled to get his plot regularize at the rate of Rs.16/- per square feet under scheme of regularization of 572 undeveloped / unauthorized layouts as per Government Resolution dated 10.05.2012 issued by the State Government.

8. In view of the above discussion, we are inclined to allow the present petition and pass the following order:-

Order

i. The petition is allowed.

ii. The impugned communication and Demand Note dated 26.10.2015 (Annexures P-11 and P-12) issued by respondent 1 are hereby quashed and set aside.

iii. Respondent 1 is hereby directed to issue demand note for development of plot No. 6 situated at Khasara No. 282, Mauza Zingabai Takli, in layout developed by Prashant Sahakari Gruh Nirman Sanstha, Nagpur at the rate of Rs.16/- per square feet for development under the scheme of regularization of “572 Layouts” under undeveloped/ unauthorized plots of the year 2000-2001 within a period of eight weeks.

9. Rule is made absolute in the aforesaid terms with no order as to costs.

(Y.G. KHOBRAGADE, J.)

(ROHIT B. DEO J.)

**SANDIP
MAHADEV
GATE**

SM Gate