

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

Writ Petition No.1238 of 2019

Smt. Sunderabai Vishwanath Piparwar (Dead),
through LR. Vijay S/o Vishwanath Piparwar

Versus

Municipal Council, Rajura,
through its Chief Officer and another

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

Court's or Judge's order

Shri Rohit Joshi, Counsel for Petitioner.
Dr. (Mrs.) R.S. Sirpurkar, Counsel for Respondent No.1.

CORAM : A. S. CHANDURKAR AND M.W. CHANDWANI, JJ.

DATE : MARCH 28, 2023.

Heard. The challenge raised in this Writ Petition is to the notice dated 8-8-2017 that was issued by the Chief Officer, Municipal Council, Rajura-respondent No.1. By the said notice, the petitioner was called upon to demolish portion of a residential house that was in a dilapidated condition under Section 195(1) of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965.

It is seen from the record that initially on 27-9-2017, the Sub-Divisional Magistrate had passed a conditional order by invoking the provisions of Section 133 of the Code of Criminal Procedure, 1973 directing demolition of aforesaid structure. The said order was the subject-matter of challenge before the superior authority which had then remanded the proceedings for fresh consideration to the Sub-Divisional Magistrate. After remand on 9-2-2023, the Sub-Divisional Magistrate has passed an order holding that the provisions of Section 133 of the Code were not liable to be invoked in the present matter since there was a dispute of civil nature between the petitioner and the respondent No.2. Further liberty has been granted to the Municipal Council to take action in accordance with Section 195 of the said Act. The aforesaid order is placed on record along with Civil Application (CAW) No.1022 of 2023.

In the light of the aforesaid order passed by the Sub-Divisional Magistrate, the impugned notice dated 8-8-2017 now does not survive and the same is accordingly quashed. Hence, there is no reason to keep the present proceedings pending.

The Writ Petition is disposed of in the light of the order dated 9-2-2023 passed by the Sub-Divisional Magistrate, Rajura. No costs.

(M.W. CHANDWANI, J.)

(A. S. CHANDURKAR, J.)

LANJEWAR