



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

WRIT PETITION NO. 5138 OF 2024

(Dr. Prashant Manohar Jagtap and another ..vs.. The State of Maharashtra, through its Additional Chief Secretary, Mumbai and others)

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

Court's or Judge's orders

Mr. A.P. Kalmegh, Counsel for the petitioners,
Mr. N.S. Rao, AGP for respondent No.1,
Mr. J.B. Kasat, Counsel for respondent Nos.2 and 3,
Mr. G.A. Kunte, Counsel for respondent No.4-NIT.

**CORAM : NITIN W. SAMBRE &
ABHAY J. MANTRI, JJ.**

DATED : 02-09-2024

Plot No. 157 out of Khasra Nos. 63 to 69 and 71 of
Mouza – Parsodi, Nelco Society, Subhash Nagar, Nagpur was
purchased by the petitioners on 28-7-2022 by a registered
sale-deed.

2. With an intention to build a house on the said plot,
proposal was submitted for grant of sanction/approval to the
building plan which is rejected by respondent No.3 on the
ground that the plot is under D.P. reservation parking and SW
82 proposal. In addition to aforesaid reason, it is also stated
that neither NIT mutation letter nor tax mutation is
submitted.

3. The aforesaid communication dated 05-12-2023 issued by respondent No.3 is subject matter of challenge.

4. According to Mr. A.P. Kalmegh, learned Counsel appearing for the petitioners, the aforesaid khasra numbers were subjected to process of de-reservation. A proceedings under Section 37 of the Maharashtra Regional and Town Planning Act, 1966 (for short, "the MRTTP Act") for minor modifications were taken out by the respondent No.2 Corporation. Submission of the said proposal was made to the State Government on 21-12-2022. He would claim that notice by the Planning Authority i.e. respondent No.2 was issued on 11-8-2021 thereby notifying its proposed action of effecting minor change in the D.P. reservation. Learned Counsel Mr. A.P. Kalmegh would urge that the issue thereafter was referred by the respondent No.2 Planning Authority to the State Government who is the final authority to approve the same. It is urged that the same issue is pending consideration with the State Government which was submitted vide proposal dated 21-12-2022 by the respondent No.2.

5. As such, he would urge that it is necessary to direct the State Government to take decision on the proposal

submitted under Section 37 of the MRTTP Act by the respondent No.2-Corporation, expeditiously.

6. As against above, Mr. J.B. Kasat, learned Counsel appearing for respondent Nos.2 and 3, so also Mr. G.A. Kunte, learned Counsel appearing for respondent No.4 submit that in the facts and circumstances of the case, the Court may pass appropriate order.

7. Mr. N.S. Rao, learned Assistant Government Pleader would invite our attention to the steps taken by the State Government in the matter of processing the request of respondent No.2-Corporation of carrying out minor modifications under Section 37 of the MRTTP Act. Mr. N.S. Rao would urge that vide communication dated 15-5-2023 the State Government has invited the views of the Director, Town Planning, Pune; Joint Director, Town Planning, Nagpur; and Assistant Director, Town Planning, Nagpur, which are yet to be received. According to Mr. N.S. Rao, the State Government shall be taking appropriate decision within reasonable period once the views are received by the State Government.

8. We have appreciated the rival claims.

9. The respondent No.4 who was the competent authority under the Maharashtra Gunthewari Developments (Regularisation, Upgradation and Control) Act, 2001 has issued a release order in relation to the plot purchased by the petitioners.

10. It appears that after the petitioners acquired the aforesaid property through a registered sale-deed, mutation came to be carried out in the revenue record and consequently the property card came to be issued in favour of the petitioners. The petitioners' request for sanction of building plan on the same property came to be rejected vide impugned order dated 05-12-2023 mainly on the ground that the plot is under D.P. reservation.

11. It can be borne out of the record and also from the submission of the learned Assistant Government Pleader that the proposal submitted by respondent Nos.2 and 3 Planning Authorities for carrying out minor modification in D.P. reservation is under active consideration of the State Government.

12. The State Government is awaiting the views of the Director, Joint Director and Assistant Director of Town Planning Authorities at Pune and Nagpur.

13. The communication to that effect issued by the State Government dated 15-5-2023 to the said authorities tendered by the learned Assistant Government Pleader Mr. N.S. Rao is taken on record.

14. In the aforesaid background, it appears that the ball is in the court of the officials of the above referred authorities at Pune and Nagpur whose views are awaited since last more than a year in the matter of processing the proposal of respondent No.2 for carrying out minor modifications as was proposed.

15. That being so, we direct the Director, Town Planning, Pune, so also the Joint Director, Town Planning Nagpur and Assistant Director, Town Planning, Nagpur to submit their views in any case within a period of four weeks from today as were invited by respondent No.1-State Government vide communication dated 15-5-2023.

16. Once such views are submitted by the said authorities, we direct respondent No.1-State Government to take final decision within a period of twelve weeks from the receipt of said recommendations from the Director/Joint Director/Assistant Director, Town Planning Authorities. The decision taken by the State Government should be communicated to the petitioners, if so required to the respondent Nos.2 and 3, immediately thereafter by obtaining acknowledgment.

17. The petition accordingly stands disposed of.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

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