



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

CRIMINAL WRIT PETITION NO.680/2024

1. Shri Deepak S/o Vithalrao Chandekar,
aged 58 Yrs., Occ. Business,
R/o Shiv Kripa Building, Bajirao
Para, Golibar Chowk, Nagpur.
2. Shri Amar S/o Ashok Donge,
aged 43 Yrs., Occ. Business,
R/o Mohan Nagar, Near Ganesh
Medical Stores, Nagpur 440 001. ... Petitioners

- Versus -

1. State of Maharashtra,
through Police Station Officer,
Panchpaoli, Nagpur.
2. State of Maharashtra,
through Commissioner of Police,
Civil Lines, Nagpur. ... Respondents

Mr. S. S. Sitani, Advocate for the petitioners.
Mr. N.H. Joshi, A.P.P. for respondent Nos.1 and 2.

CORAM: VINAY JOSHI & MRS.VRUSHALI V. JOSHI, JJ.
DATED: 25.9.2024.

ORAL JUDGMENT (Per Vinay Joshi, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of learned counsel for the parties.

2. The petitioners have questioned the legality and tenability of the impugned notice dated 9.8.2024 issued under Section 168 of the Bhartiya Nagarik Suraksha Sanhita (Section 149 of the Old Code). By way of said notice, the police authorities have restrained the petitioners from raising construction on the subject premises. Being aggrieved by such order, which is virtually an order of injunction normally passed by Civil Court, the petitioners have challenged it. In support of said contention, the petitioners relied on the decision of this Court in case of Rai Udyog Ltd., through its Managing Director, Shri Kishor V/s. State of Maharashtra, through Police Station In-charge, Sadar Police Station and others reported in **2022 SCC OnLine Bom 1584** wherein whilst considering the same issue this Court has expressed the meaning of the term “interpose” as mentioned in the section and ultimately ruled that the police have no authority/jurisdiction to issue such a prohibitory order of injunction.

3. The State has resisted the application by filing reply affidavit. It is contended that the police have received a complaint from the landlord on which the police perceived the possibility of untoward situation hence to give understanding the notice has been issued. Certainly the police can act upon possibility of cognizable offence, however, within the four-corners of law. In view of above, the impugned prohibitory order is apparently without jurisdiction hence unsustainable in the eyes of law.

4. In view of above, writ petition is allowed. The impugned notice dated 9.8.2024 is hereby quashed and set aside. The police are at liberty to take appropriate action as permissible in the law.

(MRS.VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)