



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

WRIT PETITION NO. 1963 OF 2024

M/s. Om Satyam Buildcom Pvt. Ltd.
Through its Director,
Mr. Rituraj s/o Vishugopal Shahu,
Aged about 39 years,
Occupation-Business,
Office at : Design Cell, 18,
Pratibha Sankul Bhagwaghar Layout,
Nagpur

.. Petitioner

.. Versus ..

1] State of Maharashtra,
Through its Secretary,
Urban Development Department,
Mantralaya, Mumbai-32.

2] The Metropolitan Commissioner,
Nagpur Metropolitan Regional,
Development Authority,
Having office at Sadar,
Nagpur-01.

3] Chief Executive Officer/Administrator,
Nagar Panchayat Godhani (Railway),
Godhani, Nagpur-441 501.

.. Respondents

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Shri Anand Jaiswal, Senior Advocate assisted by Ms. Radhika G.
Bajaj, Advocate for Petitioner.

Shri P.P. Pendke, A.G.P. for Respondent No.1/State.

Shri Girish A. Kunte, Advocate for Respondent Nos.2 and 3.

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CORAM : SMT. M.S. JAWALKAR, AND
PRAVIN S. PATIL, JJ.

DATED : 26th JUNE, 2025.

JUDGMENT [Per : Pravin S. Patil, J.]

1. **Rule.** Rule made returnable forthwith. By consent of the learned Counsel for the parties, the matter is taken up for final disposal.

2. By this petition, the petitioner seeks declaration that petitioner's proposal is eligible for sanction as per regulation No.1.0 (v & vi) of DCPR-2018 vide notification dated 05.01.2018, being a part of committed development and as per the saving clause and regulation no.5.1.3 of UDCPR-2020.

3. It is the case of the petitioner that he being the owner and possessor of land in question approached to the respondent no.2 for sanction of layout and filed an application of the layout sanction for residential purpose. Respondent no.2 issued tentative approval to the proposal filed by the petitioner and accordingly the approval letter was issued to the petitioner. It is further stated that the Chairman, Nagpur Improvement Trust,

granted tentative approval to the petitioner and accordingly the proceedings were initiated for demarcation and measurement of the layout.

4. During the pendency of said proposal, the proceeding for area correction came to be initiated by the office of Deputy Superintendent of Land Records, Nagpur (Gramin) and proposal was sent to the office of Sub-Divisional Gramin without any change in the area. In the meantime, State Government notified the area in dispute under the jurisdiction of Nagpur Metropolitan Area vide Notification No.22/2015 to which the petitioner had raised objection. It is further stated that the State Government approved DCPR-2018 published with the development plan of NMRDA vide notification dated 05.01.2018. The petitioner approached the respondent no.2 for its sanction but despite above consideration, the vague communications were sent to the petitioner and accordingly the present petition came to be filed.

5. During the course of hearing, the petitioner has relied upon the judgment delivered by coordinate bench at Bombay in

the case of *Raj Realtors .vs. The State of Maharashtra and others in Writ Petition No.2693/2024, decided on 09.12.2024*, wherein this court observed in paras 13 to 18 as under :

13. However, there is another hurdle for the Petitioner to overcome. The provision in the UDCPR that deals with the issue of pre-committed development is contained in Regulation 5.1.3, which is extracted below :

“5.1.3 Committed Development

i) Any development permission granted or any development proposal for which tentative or final approval has been recommended by the concerned Town Planning Office and is pending with the concerned Revenue Authority for demarcation or for final N.A. permission before publication of draft RP (date of resolution of the RP Board for publication) shall be continued to be valid for that respective purpose/use irrespective of approved Floor Space Index. Provided that, it shall be permissible for the owner either continue with the permission in toto as per such earlier approval or apply for grant of revised permissions under these regulations. However, in such cases of revision, the premium, if any, shall not be applicable, for approved permissions (including tentative). This provision shall not cover the cases mentioned in 5.1.3 (iii) below.

ii) The layout already approved/development permission already granted for residential purpose and which are valid as per the provisions of UDCPR shall be entitled for development subject to use of earlier permission. This shall also be applicable to cases where sale permission for N.A. use has been granted prior to the date of sanction of these Regulations, for the same use as

the one for which sale permission was granted.

iii) The layout already approved/development permission already granted for the uses permissible in agricultural or such restrictive zone and which are valid as per the provisions of UDCPR shall be entitled for development subject to use and FSI of respective use granted in earlier permission. [Emphasis Supplied]

14. *It will be seen from the foregoing that Regulation 5.1.3 (i) of the UDCPR brings in an element of change to the date of publication of the DRP, from what is stipulated under Section 18 of the MRTP Act. While the earliest date for commencement of the statutory restriction on change of use and development, contemplated under Section 18 of the MRTP Act, is the date of publication of the DRP, in Regulation 5.1.3(i) of the UDCPR, by using the words in parenthesis after the words “before publication of the draft RP”, the starting date for triggering the prohibition on development is stretched to an even prior date i.e. the date on which the Regional Planning Board passes a resolution approving the publication of notice of the DRP.*

15. *In the facts of this case, it was on March 22, 2017 that the Regional Planning Board resolved to publish the DRP, which was published on April 5, 2017. The approval for change of use and the development permission in the instant case was accorded on April 4, 2017. Therefore, such approval had been issued one day prior to the publication of the DRP, but after the date of the resolution passed by the Regional Planning Board. This creates the need to interpret the interplay between Regulation 5.1.3 of the UDCPR and Section 18 of the MRTP Act.*

16. Having examined the provisions, it is apparent to us that any development permission granted, or any development proposal for which tentative or final approval has been recommended by the Town Planning Office and was pending with the relevant Revenue Authority before the date of passing the resolution would continue to be valid under Regulation 5.1.3(i). However, in the instant case, the approval on April 4, 2017 is after the date of the resolution by the Regional Planning Board.

17. However, such a requirement would not apply to cases covered by Regulation 5.1.3 (iii). In terms of that provision, development permissions ‘already’ granted for uses permissible in agricultural or restrictive zone shall be valid for carrying out development in accordance with the approved terms. This would call for interpretation the word ‘already’, which would necessarily need to have reference to a point of time.

18. As regards Regulation 5.1.3(ii), here too the development permission ‘already’ granted for residential purpose shall be valid in accordance with its terms. However, where the change of use to non-agricultural purpose has been granted prior to the sanction of the UDCPR (this date is December 2, 2020), the same use as the one for which the permission was granted, would be valid.

According to the petitioner, the petitioner’s case is covered by the judgment delivered by the coordinate bench.

6. Learned counsel appearing for respondent nos.2 and 3, after going through the judgment of coordinate bench, fairly admitted that the issue involved in the present matter is covered by the judgment delivered by the coordinate bench. As such, the controversy involved in the petition is resolved by the judgment of this court dated 09.12.2024. Accordingly, we proceed to pass the following order :

ORDER

(i) The writ petition is allowed in terms of prayers made in the petition.

(ii) Respondent no.3 is herewith directed to process the proposal for change of user of land belonging to petitioner within a period of 60 days and respondent no.1 is directed to complete entire procedure required under Section 37 of the Maharashtra Regional and Town Planning Act, 1966 by issuing necessary notification within a period of 60 days thereafter.

7. Rule is made absolute in the above terms.

(Pravin S. Patil, J.)

(Smt. M.S. Jawalkar, J.)