



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

WRIT PETITION No.1693 OF 2024

(Shri Suresh Pralhad Sontakke Vs. Nagpur Improvement Trust, through its Chairman,
Nagpur 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. Sadavarte, Advocate for petitioner.
Mr. S.M. Puranik, Advocate for respondent Nos.1 and 2.
Mr. R.S. Kalingiwale, Advocate for respondent Nos.3 and 4.
Mr. D.V. Chauhan, Senior Advocate and Government Pleader with Ms.
T.H. Khan, AGP for respondent No.5.

CORAM : ALOK ARADHE, CJ. AND AVINASH G. GHAROTE, J.
DATE : 26th FEBRUARY, 2025.

P.C.

1. **Rule.** Rule made returnable forthwith. Heard finally with the consent of learned counsel for the parties.

2. In this writ petition, the petitioner *inter alia* seeks a direction to the Divisional Officer, Nagpur Improvement Trust and Nagpur Municipal Corporation to remove the encroachment made on the road opposite to Plot Nos.122 and 123.

Facts giving rise to filing of this petition briefly stated as under :

3. The petitioner is the owner of Plot Nos.122 and 123 situated in Nagsen Co-operative Housing Society, Mouza Mankapur, Nagpur. It is the case of the petitioner that unauthorized occupants, namely, Shri Rajaram Dhore and Shri Ramesh Thakur have raised construction of the residential

house without obtaining any permission from the authority. It is the grievance of the petitioner that on account of unauthorized construction work carried out by the aforesaid persons and several others, development work of the Society cannot be taken up and the work of installation of sewerage line has been hindered. The petitioner, as per the averments made in the petition, had approached the authorities for removal of encroachment. However, the representation of the petitioner has failed to seek any response, hence this petition.

4. Learned counsel for petitioner submits that writ petition be disposed of with a direction to the competent authority viz. respondent Nos.1 and 2 to take action for removal of encroachment.

5. On the other hand, learned counsel for respondent Nos.1 and 2, on instructions, submits that the encroachment which has been made by Shri Rajaram Dhore and Shri Ramesh Thakur is away from the plot of the petitioner and in no way affects the petitioner. However, it is stated by learned counsel that no one has right to encroach the property belonging to the Trust and the Corporation and the Nagpur Improvement Trust shall initiate necessary action for removal of the encroachment.

6. In view of aforesaid submissions and in the peculiar facts of the case, we deem it appropriate to issue following directions :

(i) The respondent No.2/Divisional Officer, Nagpur Improvement Trust (North Zone), Nagpur shall issue a notice to carry out survey in respect of area on which an encroachment has been made. The aforesaid notice shall be issued to Shri Rajaram Dhore and Shri Ramesh Thakur as well

as petitioner and to all others who may be in occupation of the land under encroachment.

(ii) After carrying out survey, in case it is found that the land belongs to Nagpur Improvement Trust, the Divisional officer, Nagpur Improvement Trust shall take an action to remove the encroachment in accordance with law.

(iii) In case, the Divisional Officer, Nagpur Improvement Trust needs Police protection he shall apply to the Commissioner of Police, Nagpur.

(iv) Needless to state that the persons, who are aggrieved by the order of removal which may be passed by the Divisional Officer, Nagpur Improvement Trust, shall be at liberty to take remedy as may be available in law.

7. Mr. D.V. Chauhan, learned Government Pleader assures this Court that necessary Police protection shall be provided to the Divisional Officer, Nagpur Improvement Trust.

8. Taking into account the nature of the order which this Court proposes to pass it is not necessary to direct the petitioner to implead the encroacher who may be in possession of the land alleged to be under encroachment.

9. It is made clear that this Court has not expressed any opinion on merits of the matter.

10. Needless to state that the aforesaid action shall be concluded by the Divisional Officer, Nagpur Improvement Trust, Nagpur within a period of three months.

11. Accordingly, the petition is disposed of.

(AVINASH G. GHAROTE, J.)

(CHIEF JUSTICE)