

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:

NAGPUR BENCH: NAGPUR

WRIT PETITION NO.3766/2008

Anandrao Raut ..vs.. M.C. Desaiganj & anor

WITH

WRIT PETITION NO.3768/2008

Dilip Nagdeve ..vs.. M.C. Desaiganj & anor

WITH

WRIT PETITION NO.3770 OF 2008

Suklal Bisen ..vs.. M.C. Desaiganj & anor

WITH

WRIT PETITION NO.3773/2008

Rahul Satwani ..vs. M.C. Desaiganj & anor

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CORAM : B. P. DHARMADHIKARI, J.

DATE: 30.9.2008

COMMON ORDER

Heard Advocate Thombre, for the petitioners and
Advocate Ghat for the respondents.

Petitioners are original plaintiffs and they are occupying shops of Municipal Council as tenants. Municipal Council wanted to construct a complex at that place and therefore, directed the petitioners to vacate. Petitioners then filed Civil Suits separately to protect their possession and applied for temporary injunction. Said temporary injunction was granted by C. J. J. D. Desaiganj on 19.3.2008.

Municipal Council then filed Misc. Civil Appeals 3 to 6 of 2008 and Ad-hoc District Judge-1 Gadchiroli has by judgment dated 19.7.2008 allowed that appeal. Said order is being challenged in the present writ petitions by the plaintiffs contending that the Collector has not permitted the Municipal Council to construct and that Municipal Council is demolishing the existing structure only

because of safety reasons i.e. it wants to pull down adjacent structure as that structure is dilapidated. It is also being stated that the said dilapidated structure is already pulled down.

Advocate Ghate states that there is compromise reached before the Collector between the parties and Municipal council has provided alternate accommodation to the petitioners and after the reconstruction is over, they are to be supplied shop blocks on priority basis. Lower appellate court has found these facts relevant and only after noticing the same the appeal filed by the Municipal Council has been allowed.

It is to be noted that the petitioners did not have any legal and valid document as per section 92 of the Maharashtra Municipalities & Industrial Township Act 1965 authorizing them to continue in occupation. The decision taken by Municipal Council is in public interest and the rights of the petitioners / plaintiff are adequately protected. Alternative sites are also made available to them for shifting. No case is therefore, made out for warranting any interference in the discretion used by the lower appellate court. Petitions dismissed.

JUDGE

smp