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

WRIT PETITION NO. 98 OF 2018

(Citizen Uplift Society Vs. Nagpur Improvement Trust & Ors.)

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

Court's or Judge's orders.

Mr. P.P. Kothari, Counsel for the petitioner.
Mr. G.A. Kunte, Counsel for respondent nos. 1, 2 and 4.
Mr. A.A. Kathane, Counsel for respondent no.3.

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CORAM : ANIL L. PANSARE AND
NIVEDITA P. MEHTA, JJ.
APRIL 7, 2026

Heard.

2] Since we find that the Counsel for the Nagpur Improvement Trust (NIT) is not prepared, even today, we proceed to pass following order on the basis of what we have heard from both sides :

3] The petitioner approached NIT, vide application dated 12/8/2009, for regularization of plot under question being plot no. 6 admeasuring 14481 square feet situated at Jaitala in Khasra Nos. 3/4, 4 and 5/2. The request so made by the petitioner has been rejected by NIT vide communication dated 24/5/2010 for the reason that the plot is affected by owing to the reason of and unregistered agreement, and that, the plot is affected by PU land as per approved layout.

4] When enquired with the Counsel for NIT as to where is the approved layout, he submits that the layout was never approved. Upon further enquiry as to why is there a reference to the approved layout in the

communication rejecting request for approval, he submits that the terminology so used is, in fact, for the purpose of making reference to the layout. According to him, the plan, which is otherwise shown as approved (Annexure R-A at page 125 of the petition) is, in fact, a layout plan for reference.

5] Thus, according to NIT, till date, the layout plan, either submitted by the petitioner or by anyone else, has been not approved.

6] The Counsel for NIT submits that a procedure has been evolved for processing the application so filed under the head 'Single Window Scheme', where NIT accepts applications filed by respective plot owners. The applications are thereafter scrutinized and regularisation certificate is issued to individual plot owners.

7] Thus, it appears that the entire process is taken up without compliance of Section 3 of the Maharashtra Gunthewari Developments (Regularisation, Upgradation And Control) Act, 2001 (for short "Gunthewari Act"), which, amongst others, provides under sub-section 2 that regularisation of any Gunthewari development shall be subject to certain conditions, namely, in the layout, 10% of plots shall vest in the Planning Authority free of cost, provided that such plots are unsold and unbuilt. The second condition is, wherever necessary, open marginal spaces should be surrendered to achieve a road width of nine meters or required development plan road width in the areas of a Municipal

Corporation, a Special Planning Authority and a New Town Development Authority, and four and a half meters or required development plan road width in other areas. The third important condition is that the Planning Authority is not responsible to provide alternate plots or otherwise compensate plot holders displaced or affected by any development or rectification carried out in the process or for the purpose of regularisation and upgradation of Gunthewari development.

8] There are other conditions as well, however, what is crucial is that without complying with these conditions, the NIT could not have and should not issue certificate of regularisation to individual plot holder/occupier. In other words, once an application is filed by an individual plot holder/occupier under Section 4 of the Gunthewari Act, the Planning Authority is duty bound to consider the application from the point of view of regularisation of Gunthewari development, which, amongst others, requires leaving 10% of the plots, which shall vest with the Planning Authority. The second important step is to surrender open marginal space to achieve road width of nine meters or four and a half meters, as the case may be. This process, according to us, has been not carried out in the present case till today. NIT, however, if has carried out such process, shall place before us document/s in support.

9] We would further like to hear from NIT as to whether any plot holder was displaced or affected by such Gunthewari developments. NIT shall further apprise

us as to the basis on which the plan placed before us, which otherwise carries remark 'for the purpose of approval only' is said to be a plan for reference and not for Gunthewari development.

10] A detailed affidavit shall be filed before next date. NIT is further directed to henceforth process applications which may be filed under Section 4 of the Gunthewari Act in terms of the provisions of law and what has been noted by us hereinabove. The layout map submitted by the plot holder along with the application made under Section 4 shall be scrutinized and necessary modification be made to earmark '10% plots' and 'open marginal spaces' wherever permissible. NIT or Planning Authority shall pass separate order to that effect so as to ensure compliance of Section 3 of the Gunthewari Act. Accordingly, mutation entry shall be effected showing NIT as owner of the '10% plots' and/or 'open marginal spaces'.

11] We are informed that NIT is in process of regularisation of plot under question, which, as such, ought not to have commenced. Nonetheless, if a decision is taken in this regard, that will be subject to the outcome of the petition.

12] List in the week commencing from 4/5/2026.

Sumit

(JUDGE)

(JUDGE)