

(2012) 02 BOM CK 0116
In the Bombay High Court
Case No : Writ Petition No. 4418 of 2011

Nagpur Municipal Corporation		APPELLANT
	Vs	
Pandurang Sawarkar		RESPONDENT

Date of Decision : 22-02-2012

Acts Referred:

City of Nagpur Corporation Act, 1948 — Section 286, 286(1), 286(2), 286(3), 384
Maharashtra Regional and Town Planning Act, 1966 — Section 149, 44, 53, 53(1),
53(3)
Nagpur Improvement Trust Act, 1936 — Section 52

Citation : (2012) 4 ALLMR 270 : (2012) 6 BomCR 337 : (2012) 3 MhLj 306

Hon'ble Judges : Vasanti A. Naik, J

Bench : Single Bench

Advocate : J.B. Kasat, for the Appellant; S.D. Khati, for the Respondent

Final Decision : Allowed

AI Structured Summary

AI-generated summary — verify against the full judgment text before relying on it in practice.

FACTS

The Nagpur Municipal Corporation issued a notice to a respondent under Section 53(1) of the Maharashtra Regional and Town Planning Act, 1966. The respondent approached the District Judge under Section 286(3) of the City of Nagpur Corporation Act, seeking an extension of the notice period. The Corporation contested the application, arguing the District Judge lacked jurisdiction as the notice was based on the MRTP Act. The District Judge overruled this objection, leading to the present writ petition challenging that order.

LAW POINTS

['Whether a person served with a notice under Section 53(1) of the MRTP Act can seek an extension of notice period under Section 286(3) of the Corporation Act.', 'The jurisdiction of the District Judge to entertain applications concerning notices issued under different acts.']

ACTS & ARTICLES

['Maharashtra Regional and Town Planning Act, 1966 - Section 53(1)', 'Maharashtra Regional and Town Planning Act, 1966 - Section 44', 'Maharashtra Regional and Town Planning Act, 1966 - Section 149', 'City of Nagpur Corporation Act, 1948 - Section 286(1)', 'City of Nagpur Corporation Act, 1948 - Section 286(3)', 'City of Nagpur Corporation Act, 1948 - Section 384']

JUDGMENTS REFERRED

['Girish Manohar Wazalwar Vs. Purushottam Parasram Kotangale']

OBITER DICTA

The court noted that many applications under Section 53 of the MRTP Act are routinely entertained under Section 286(3) of the Corporation Act, leading to academic questions once the notice period expires. There is a procedural gap that affects the proper execution of the law.

RATIO DECIDENDI

The court established that a person served with a notice under Section 53 of the MRTP Act cannot seek an extension of the notice period under Section 286(3) of the Corporation Act as the schemes and provisions of the two Acts are distinct and cannot be interchanged.

FINAL RULING

The writ petition was allowed, and the impugned order dated 21.06.2011 by the District Judge was quashed. The court issued a rule absolute without costs.

PLAIN-LANGUAGE GIST

The dispute revolved around the jurisdiction of the District Judge to extend the notice period based on two different statutes. The court ultimately ruled that such an extension under the Corporation Act was not applicable for notices issued under the MRTP Act.