

(2022) 11 MP CK 0032

In the Madhya Pradesh High Court

Case No : Writ Petition No. 25862 Of 2022

??Anil Rathore And Others

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 10-11-2022

Acts Referred:

Constitution Of India, 1950 — Article 226

Madhya Pradesh Land Revenue Code, 1959 — Section 44(1), 248

Citation : (2022) 11 MP CK 0032

Hon'ble Judges : Subodh Abhyankar, J

Bench : Single Bench

Advocate : Vibhor Khandelwal, Bhuwan Deshmukh

Final Decision : Disposed Of

Judgement

Subodh Abhyankar, J

This petition has been filed by the petitioners under Article 226 of the Constitution of India assailing the notice dated 09.11.2022 passed by the respondent No.3/Tehsildar, District Dhar. The aforesaid notice has been issued to the petitioners in pursuant to the order passed by the respondent No.2/Sub Divisional Magistrate, Dhar on 09.11.2022 itself.

Learned counsel for the petitioner has submitted that initially the petitioners were served a notice under Section 248 of the M.P. Land Revenue Code, 1959. Its reply was filed by the petitioners and the original order was passed by the respondent No.3/Tehsildar on 22.09.2022 against which, an appeal was preferred before the Sub Divisional Magistrate under Section 44(1) of the M.P. Land Revenue Code, however, the aforesaid appeal appears to have been rejected by the Sub Divisional Magistrate only on 09.11.2022 and for obtaining the certified copy of the same, the petitioners have already applied to the office of Sub Divisional Magistrate. However, even before the certified copy of the order could be served to the petitioners, the impugned notice has been served on them by

the Tehsildar asking them to vacate the premises by referring to the decision rendered by the Sub Divisional Magistrate on 09.11.2022. Thus, counsel has submitted that the petitioners have not been given the adequate opportunity to assail the order dated 09/11/2022 which is still to be received by them. Under such circumstances, the impugned notice may be quashed.

Learned counsel for the respondents/State on the other hand has opposed the prayer and it is submitted that the petitioners shall be given the certified copy as per the law, at the earliest and since the order dated 09.11.2022 passed by the Sub Divisional Magistrate has not been challenged by the petitioners, no case for interference is made out.

On due consideration of submissions and on perusal of the documents

filed on record and taking note of the fact that the petitioners have still not been given the certified copy of the order dated 09.11.2022 passed by the Sub Divisional Magistrate and instead they have been directed to vacate the premises on the basis of the aforesaid order by the impugned notice dated 09.11.2022 passed by the respondent No.3/Tehsildar. The aforesaid act of the respondents in not providing them the certified copy of the order is adverse to their interest and on that basis, to issue them notice to vacate the premises, runs contrary to the principles of natural justice and is liable to be interfered with.

As a result, the impugned notice dated 09/11/2022 is hereby quashed and the respondents are directed to furnish to the petitioners certified copy of the order dated 09.11.2022 at the earliest and it is also directed that after the copy of the aforesaid order is served to the petitioners, no action shall be taken against them pursuant thereto for a period of fifteen days, so as to allow the petitioners to take such recourse of remedy available to them under the law to assail the order dated 09.11.2022 passed by the respondent No.2.

With the aforesaid direction, the writ petition stands disposed of.

C.C. as per rules.