

(2020) 07 MP CK 0076

In the Madhya Pradesh High Court

Case No : Writ Petition No. 8881 Of 2020

Arun Sharma

APPELLANT

Vs

State of M.P. And Others

RESPONDENT

Date of Decision : 01-07-2020

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2020) 07 MP CK 0076

Hon'ble Judges : G. S. Ahluwalia, J

Bench : Single Bench

Advocate : Pawan Kumar, M. P. S. Raghuvanshi

Final Decision : Dismissed

Judgement

Heard finally through video conferencing.

This petition under Article 226 of the Constitution of India has been filed seeking the following relief:-

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It is submitted by the counsel for the petitioner that the petitioner had filed a suit for declaration of title, which was partially decreed by judgment dated

23.01.2013 passed by 12th Civil Judge, Class-II, Gwalior in Civil Suit No. 31-A/2009. Against the said judgment and decree, the appellant had filed an

appeal, which was registered as Civil Appeal No. 29-A/2013, which was allowed by judgment and decree dated 20.12.2013 passed by 11th Additional

District Judge, Gwalior and the following decree was passed:-

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It is submitted by the counsel for the petitioner that in spite of decree of permanent injunction and declaration of title, private persons have encroached upon the said property and in spite of the representation/application made by the petitioner, the respondents are not taking any action to remove the encroachment.

Heard the learned counsel for the petitioner.

The petitioner has not impleaded those persons who have encroached upon the said property. Furthermore, if anybody has violated a decree passed by

the Court of competent jurisdiction, then the petitioner has an efficacious remedy of filing an application for execution of the same. By filing this

petition under Article 226 of the Constitution of India, in fact the petitioner is seeking execution of the judgment and decree dated 20.12.2013 passed

by 11th Additional District Judge, Gwalior in Civil Appeal No. 29-A/2013. Therefore, the petitioner has an efficacious remedy as provided under

Order 21 of CPC.

Accordingly, the petition is dismissed with liberty to the petitioner that in case, if he so desires, then he can file an application for execution of decree

dated 20.12.2013 passed by 11th Additional District Judge, Gwalior in Civil Appeal No. 29-A/2013.

No order as to cost.