
(2012) 09 MP CK 0274

In the Madhya Pradesh High Court

Case No : Writ Petition No. 8610 of 2012

Dharmendra Singh and Others

APPELLANT

Vs

Principal Secretary State of M.P. and Others

RESPONDENT

Date of Decision : 21-09-2012

Acts Referred:

Citation : (2012) 09 MP CK 0274

Hon'ble Judges : Shantanu Kemkar, J;Prakash Shrivastava, J

Bench : Division Bench

Advocate : Ajay Assudani, for the Appellant; M. Ravindran, learned Deputy Government Advocate for the respondents No. 1, 2, 3, 5, 6 and 7, for the Respondent

Judgement

1. By filing this petition in the nature of public interest litigation, the petitioners have alleged inaction on the part of the respondents No. 4 and 5 in not demolishing/removing the shop of the 9th respondent which is on the land of the 8th respondent, situated at residential Plot No. 52, Maruti Nagar, Dewas by restoring the land in its original form. According to the petitioners, the construction of shop on the said plot No. 52, Maruti Nagar, Dewas is contrary to Master Plan and the provisions of M.P. Nagar Tatha Gram Nivesh Adhiniyam, 1973 (for short, the Adhiniyam) and M.P. Bhumi Vikas Rules, 1984/2012 (for short, the Rules).

2. It is the case of the petitioners that the said land is earmarked and designated for residential land use in the Master Plan and its use cannot be changed without complying the relevant provisions of the Adhiniyam. It is also the case of the petitioners that the Deputy Director, Town and Country Planning, Dewas vide letter dated 9.04.2010 (Annexure P-10) had written to the 4th respondent - Commissioner, Municipal Corporation, Dewas to demolish the construction of the shop on the said land and thereafter vide letter dated 11.05.2010 the Commissioner, Municipal Corporation, Dewas has also sent a letter to the 8th respondent for removing the construction of shop, but till date no further steps/

action has been taken so as to remove/demolish the said illegal or unauthorised construction of shop on the land in question.

3. Today when the matter came up for hearing the only prayer made by learned counsel for the petitioners is to dispose of this petition by directing the 1st respondent - Principal Secretary, Housing and Environmental Department, Bhopal to consider the petitioners' grievance in the light of the provisions contained in the Adhiniyam, the Rules and bye-laws and take necessary steps in accordance with law keeping in view the law laid down by the Supreme Court in the case of R.K. Mittal & others vs. State of U.P. & others (2012 AIR SCW 390).

4. The aforesaid prayer appears to be reasonable.

5. Accordingly, without commenting upon the merits of the matter and the petitioners' contention, we are inclined to dispose of this petition giving liberty to the petitioners to submit a detailed representation before the 1st respondent. On receipt of such representation, the 1st respondent shall examine the same and shall take necessary steps and action in accordance with law as may be permissible, after giving due opportunity of hearing to the parties likely to be affected.

6. Let the entire exercise be completed by the 1st respondent within four months from the date of receipt of such representation.

7. With the aforesaid directions, the writ petition stands disposed of. C.c. within 3 days.