
(2018) 01 MP CK 0035
In the Madhya Pradesh High Court
Case No : 1078 of 2018

Firm Sachin Bholasingh Bhatkariye & Ors	APPELLANT
Vs	
Krishi Upaj Mandi Samiti, Indore and another	RESPONDENT

Date of Decision : 16-01-2018

Acts Referred:

[Madhya Pradesh Krishi Upaj Mandi Allotment of Land & Structures Rules, 2009](#), Rule 19(2)

Citation : (2018) 01 MP CK 0035

Hon'ble Judges : VIVEK RUSIA

Bench : Single Bench

Advocate : S.C.Bagadia, V.P.Bhagwat, Dharmendra M.Sharma

Final Decision : Disposed off

Judgement

1. This order shall govern disposal of W.P.Nos.1078/2018, 1080/2018, 1087/2018, 1089/2018 and 1094/2018 as similar controversy is involved in these petitions.
2. The petitioners have filed these petitions being aggrieved by the order dated 04.01.2018 passed by the Additional Director, M.P. State Agriculture Marketing Board, Bhopal by which the application for stay has been rejected.
3. Admittedly, petitioners are allottees of shop in the year 2011 by way of auction. In the year 2017, Krishi Upaj Mandi Samiti issued notice to them pointing out some irregularities in the allotment done in the year 2011 in respect of price. In pursuant to the show cause notice, petitioners appeared by filing reply and finally vide order dated 21.11.2017 the Krishi Upaj Mandi Samiti has cancelled the allotment and directed the petitioners to handover the vacant possession of the shops.

4. Initially the petitioners assailed the said order directly by of writ petitions before this Court. All the writ petitions were disposed of by this Court

vide order dated 11.09.2017 by relegating the petitioners to the appellate Authority with liberty to file an application for stay also. This Court

protected the interest of the petitioners for a period of four weeks and directed the appellate Authority to decide the application for stay. After the

order of the High Court, the petitioners preferred an appeal under Rule 19(2) of Madhya Pradesh Krishi Upaj Mandi (Allotment of Land and

Structures) Rules 2009 before the Joint Director alongwith the application for grant of stay.

5. After hearing both the parties the appellate Authority has declined grant of stay and rejected the application and hence the present petitions are

filed before this Court.

6. Undisputedly, the petitioners are the allottees of certain shops by way of auction held in the year 2011 and they are continuing in possession. In

the year 2017 their allotments have been cancelled. The said order is under challenge before the appellate Authority. The appellate Authority has

rejected the stay application only by observing that the petitioners have no prima facie case, balance of convenience are not in their favour. No

reasons in detail have been recorded by the appellate Authority while rejecting an application for stay.

7. The Apex Court in the case of Deoraj Vs. State of Maharashtra (2004) 4 SCC 697 has observed that in certain situation the interim relief ought

to have been granted by the appellate Court. Paragraph 12 is reproduced here below:-

12. Situations emerge where the granting of an interim relief would tantamount to granting the final relief itself. And then there may be converse

cases where withholding of an interim relief would tantamount to dismissal of main petition itself; for, by the time the main matter comes up for

hearing there would be nothing left to be allowed as relief to the petitioner though all the findings may be in his favour. In such cases the availability

of a very strong prima facie case - of a standard much higher than just prima facie case, the considerations of balance of convenience and

irreparable injury forcefully tilting the balance of case totally in favour of the applicant may persuade the Court to grant an interim relief though it

amounts to granting the final relief itself. Of course, such would be rare and exceptional cases. The Court would grant such an interim relief only if

satisfied that withholding of it would prick the conscience of the Court and do violence to the sense of justice, resulting in injustice being

perpetuated throughout the hearing, and at the end the Court would not be able to vindicate the cause of justice. Obviously such would be rare

cases accompanied by compelling circumstances, where the injury complained of is immediate and pressing and would cause extreme hardship.

The conduct of the parties shall also have to be seen and the Court may put the parties on such terms as may be prudent.

8. The interim protection granted by this Court must continue during pendency of appeal otherwise the Krishi Upaj Mandi Samiti may allot the said

shops to someone else and due to which third party interest would be created. The petitioners are doing business since last 6-7 years and if stay is

not granted they would suffer irreparable loss. Their appeal is yet to be decided on merit, therefore, the appellate Authority is directed to decide

the appeal on merit finally within a period of 45 days from the date of receipt of certified copy of this order. Till then the possession of the

petitioners shall not be disturbed.

Accordingly, the writ petitions are disposed of.

C.C.as per rules.