
(1995) 05 MP CK 0022
In the Madhya Pradesh High Court
Case No : Writ Petition No. 1470 of 1994

Gajraj Singh

APPELLANT

Vs

State of Madhya Pradesh and Others

RESPONDENT

Date of Decision : 08-05-1995

Acts Referred:

Urban Land (Ceiling and Regulation) Act, 1976 — Section 33
Urban Land (Ceiling and Regulation) Rules, 1976 — Rule 5(2)

Citation : (1995) 40 MPLJ 646 : (1995) MPLJ 646

Hon'ble Judges : Tejinder Singh Doabia, J

Bench : Single Bench

Advocate : M.M. Kaushik, for the Appellant; K.N. Gupta, Government Advocate, for the Respondent

Judgement

T.S. Doabia, J.

Counsel heard.

This is a petition preferred against an order by which an appeal filed by the petitioner was dismissed as barred by limitation. The basic order was passed by the Competent Authority on 4-5-1993. The appeal was preferred against the above order on 23-8-1993. This was done after a period of 110 days from the date the order was passed. The appeal was dismissed on the ground that the appeal was barred by limitation. It was observed that the period of limitation is 30 days.

The only argument raised in this petition is that under Rule 5(2) of the Urban Land (Ceiling and Regulation) Rules, 1976, the draft statement is to be served on the owner by a registered post. It has, however, been provided that in case this registered post service is refused then it would be treated as a valid service. Rule 5(1) and (2) reads as under :-

"5. Particulars to be contained in draft statement as regards vacant lands and manner of service of the same. - (1) Every draft statement prepared under sub-

section (1) of Section 8 shall contain the particulars specified in Form III.

(2)(a) The draft statement shall be served together with the notice referred to in sub-section (3) of Section 8 on -

(i) the holder of the vacant lands, and

(ii) all other persons, so far as may be known, who have, or are likely to have, any claim to, or interest in the ownership, or possession, or both, of the vacant lands,

by sending the same by registered post addressed to the persons concerned :

(i) in the case of the holder of the vacant lands, to his address as given in the statement filed in pursuance of sub-section (1) of Section 6, and

(ii) in the case of other persons at their last known addresses.

(b) Where the draft statement and the notice are returned as refused by the addressee, the same shall be deemed to have been duly served on such person.

(c)**** **"

In the present case, the stand taken before the appellate authority was that the service was effected through one Shri Ramvir. It is further stated that the petitioner refused to accept the notice. There was no service by registered post as contemplated by Rule 5(2), and as such, it cannot be said that there was any valid service of draft statement. The appeal could not be dismissed as barred by time. As such, the matter is remanded to the appellate Court to redetermine the matter on merits after affording due opportunity to the petitioner. The petitioner would appear on 4th July, 1995. The petitioner would furnish copy of the order passed by this Court on the above date to the appellate authority. In case the petitioner fails to appear, the appellate authority would be at liberty to proceed *ex parte*.

The petition is disposed of accordingly.