
(2011) 12 MP CK 0046

In the Madhya Pradesh High Court

Case No : Writ Petition No. 20412 of 2011

Gram Panchayat, Sarasdoli

APPELLANT

Vs

The State of Madhya Pradesh and three others

RESPONDENT

Date of Decision : 07-12-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Madhya Pradesh Land Revenue Code, 1959 — Section 248

Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 — Section 56

Citation : (2011) 12 MP CK 0046

Hon'ble Judges : Sanjay Yadav, J

Bench : Single Bench

Judgement

Sanjay Yadav, J.—Gram Panchayat Sarasdoli, tehsil Shahpura, district Dindori, vide this petition under Article 226 of the Constitution of India seeks direction to respondents to initiate action and remove encroachment over the government land within Gram Panchayat Sarasdoli.

2. It is contended that khasra No. 848 and other government land in the market place of village Sarasdoli is being encroached upon by the persons having no authority to occupy the government land. It is urged that though within the power of Tehsildar u/s 248 of the Madhya Pradesh Land Revenue Code, 1959, no action is being taken despite of he being apprised of the said encroachment.

3. Placing reliance on the proviso to sub-section (2) of Section 56 of the M. P. Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993, it is contended by the learned counsel for the petitioner that it is obligatory duty of Tehsildar to remove such hindrance, obstruction or encroachment from the government land within the municipal limit after receiving a resolution to that effect passed by the Gram Panchayat.

Sub-section (2) of section 56 of the Adhiniyam of 1993 stipulates :

56. Hindrances, obstructions and encroachment upon public street and opensites.

(1) xxx

(2) Notwithstanding anything contained in sub-section (1), the Gram Panchayat shall have power to remove any such obstruction or encroachment and to remove any crop unauthorisedly cultivated on grazing or any other land not being private property and shall have the like power to remove any unauthorised obstruction or encroachment or projection of the like nature in any open site not being private property, whether such site is vested in Gram Panchayat or not and the expenses of such removal shall be paid by the person who has caused the said encroachment and on failure to pay such expenses the same may be recovered from such person as an arrear of land revenue.

Provided that notwithstanding anything contained in sub-section (1) and this sub-section if the Gram Panchayat resolves to remove any hindrances, obstruction or encroachment on any land vested in the State Government it may refer to the Tehsildar to remove such hindrances, obstruction or encroachment from such land and the Tehsildar shall proceed to do so under the provisions of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959).

4. Learned Deputy Advocate General appearing for the State does not dispute the above legal position and submits that the Tehsildar may be directed to take recourse to law.

5. In view of above this petition is finally disposed of with a direction to respondent No. 4- Tehsildar Shahpura, district-Dindori, to take action on the resolution preferred by the petitioner/Gram Panchayat Sarasdoli seeking removal of encroachment from the government land within the limits of Gram Panchayat Sarasdoli in accordance with law.

6. Certified copy as per rules.