
(2018) 01 MP CK 0067
In the Madhya Pradesh High Court
Case No : 3099 of 2016

Indore Abhibhashak Sangh	Vs	APPELLANT
State of Madhya Pradesh & others		RESPONDENT

Date of Decision : 11-01-2018

Acts Referred:

Citation : (2018) 01 MP CK 0067

Hon'ble Judges : Hemant Gupta, Vijay Kumar Shukla

Bench : Division Bench

Advocate : Ashok Gupta, P.K. Kaurav, Amit Seth, Abhishek Gulati

Final Decision : Disposed off

Judgement

1. The present writ petition is filed by Indore Bar Association, an Association of Advocates practicing at District Court Indore. The challenge is to the communication dated 17.6.1982 - Annexure P/2 and order-dated 2.5.1998 - Annexure P/1, and have claimed 6.8244 acres be transferred for construction of Indore District Judicial Complex.

2. Facts leading to the present writ petition are that District Court Complex is situated on Plot No. 517, Mahatma Gandhi Road, Indore. The building was constructed in 1905, for the purposes of High Court. The petitioner states that as of now 50 Courts are working, whereas more Courts are required to cater to the needs of 40 Lakh population of the area. The petitioner asserts that the land bearing Survey No.282/2 measuring 22.64 acres was given to Hope Textile Limited in the year 1939 for industrial purposes. The said Mill is lying closed and that the lease and its utilization of the land have come to an end. It is further asserted that such land on the north of the District Court Complex is most suitable

for the construction of the New District Court Complex. It is further asserted that on 17.6.1982, 60% of said land is said to have vested in the

State Government, whereas vide order-dated 2.5.1998, the use of the said land was declared as "commercial". The petitioner has been submitting

representations time and again for allotment of such land for construction of District Court Complex. Thus, petitioner claims the change of user

from "industrial" to "commercial" be modified for the purposes of use of the land for the Court. The petitioner is said to have been claiming such

land for the last 30 years.

3. Initially, the writ petition was filed at the Indore Bench of the High Court, but subsequently it stands transferred to Principal Bench vide order-

dated 10.2.2016.

4. In a reply filed on behalf of the State, it is asserted that land bearing Survey No.526/1/1 and 526/1/2 situated in Village Pipliyahana, Tehsil and

District Indore, admeasuring 11.161 hectare was allotted for the purpose of construction of District Court Complex on 22.2.2000 after a

resolution was passed by this Court on 31.10.1998. It is also pointed out that by an order of Prime Minister of the Holkar State bearing

No.3248/F dated 2.9.1939, land measuring 22.24 acres was leased for 99 years to M/s Nandlal Bhandari and Sons for a sum of Rs. 5 Lakhs

with stipulation to pay an annual rent of Rs. 6000/-. On 14.11.1967, the State Government permitted M/s Nandlal Bhandari and Sons to sub-

lease the said land for "industrial" use only. The name of firm M/s Nandlal Bhandari and Sons was changed to Hope Textile Limited (for short ""the

Mill"")) when a certificate of incorporation dated 3.1.1976 was issued by the Registrar of Companies. The State Government has given a guarantee

of Rs. 60 Lakhs to the Bank to meet out the financial difficulties of the Mill. Subsequently, the State Government gave a guarantee of Rs. 75 Lakhs

as well. The constructed area of the Mill was on an area of 8.24 acres, leaving balance of 14 acres. 1.97 acres of which was left for construction

of 60 feet wide road and balance of 12.03 acres was divided between the State Government and the Mill. 60% of the land i.e. 7.218 acres was

ordered to be vested with the State Government, whereas remaining 40% i.e. 4.812 acres was given to the Mill for "commercial and residential"

activities.

5. The present writ petition was taken up on different dates. An affidavit dated 16.8.2017 has been filed on the basis of newspaper report,

published in Dainik Bhaskar on 8.8.2017, to the effect that new court complex will be constructed by demolishing Moti Bungalow which is the

building of the office of Commissioner. Such report is based upon a statement made by Shri Rampal Singh, Law Minister of the State.

6. Thereafter, the learned District and Sessions Judge, Indore has furnished a status report on 21.8.2017, pointing out that the total sanctioned

strength of the Judicial Officers for the Indore District Court is 179 and only 55 Courts are functioning. It is pointed that the old building was meant

for five courts constructed in the year 1905 by His Highness The Maharaja Tukoji-Rao Holkar. The total infrastructure of the court building is in a

very bad shape. The working conditions are not upto the mark. Some of the Judicial Officers are not having chambers or toilets. Some Lady

Judges have to share common toilets. Some Court rooms are very small in size and some are not maintaining the minimum standards. The building

constructed in the year 1905 has completed its structural life. The remaining segments are also in bad shape and in a poor condition. The Court

building is lacking toilets for general public. Indore is the biggest city of Madhya Pradesh and is also the biggest commercial city of the State. The

number of different natures of case is also very high. There is no space for Computerized filing center, Registration center, Talwana section,

Malkhana as well as Nazarat section. The total building infrastructure is in a scattered form. Therefore, it is very tough to manage all the situations

arising in day to day working. Around 5600 Advocates are practicing but there is no proper and dignified chamber facility available to the

Advocates. There is no vacant land available for parking as well as future expansion.

7. On 11.12.2017, the State filed a status report. It is pointed out that various options have been thoroughly considered at the High Court level in

the meetings. In a meeting held on 12.8.2017, chaired by the Chairman of the Building Maintenance Committee and the Portfolio Judge, the issue

of allotment of 11.161 hectares of land at Khasra No.526/1/1 and 526/1/2 at Village Pipliyahana, Tehsil and District Indore was discussed and

also the adjacent land of Mill and the land of the Commissionerate. It is also pointed out that an application was filed before the National Green

Tribunal bearing O.A. No.24/2016 (CZ) Kishore Deepak Kodwani Vs. Chief Secretary and others. In a report submitted by the District

Collector on 11.3.2016 before the National Green Tribunal, it was submitted that the actual land of Pipalyahana reservoir is situated at Khasra

No.525, whose area is 3.674 Hectares (9.08 acres). In view of the said report, the learned National Green Tribunal (hereinafter referred to as

"Tribunal") passed an order permitting construction to be raised subject to conditions imposed by the State Level Environment Impact Assessment

Authority. However, the Tribunal did not interfere with the allotment of the land in question, for the construction of District Court Complex. The

Tribunal passed the following order on 18.3.2016:-

22. For all the reasons aforesaid we do not find any reason to interfere with the allotment of the land in question for construction of the District

Court Complex.

23. In the result the application is dismissed with no order as to costs.

24. However, before parting we would call upon those concerned to consider as to whether the set back of 30 meter area stipulated under Clause

iii (a) of the specific conditions of the EC, can be increased to atleast 50 meter considering the undeniable fact that during the rainy season water

from the lake spreads over the allotted land. This would also be in the interest of stability of the proposed Court Complex.

8. It is pointed out that in terms of the order of the Tribunal, the availability of the land was again assessed by leaving 12.37 acres of land upto High

Tank Level, still an area of 12.12 acres is available for the construction of District Court Complex.

9. The availability of land of the Mill near the existing Court complex was directed to be explored by the Chairman of the Building Maintenance

Committee as well also of the land wherein offices of the Revenue Commissioner, Indore; Municipal Commissioner, Indore; and, the Sales Tax

Commissioner, Indore are in existence in the meeting held on 12.8.2017. The minutes of the such Meeting held on 12.8.2017, attached with the

status report, reads as under:

The Collector, District Indore, contends that the land which allegedly belongs to Hope Textile Mill, cannot be allocated to the District Court

because several litigations are pending in the High Court Madhya Pradesh as well

in the Supreme Court, therefore, the proposal as made by Mr.

Dinesh Pandey, President, District Court Bar Association, Indore, cannot be materialized. It is contended by him that a meeting was organized in

the presence of Revenue Commissioner, Indore, Labour Commissioner, Indore and Sales Tax Commissioner, Indore to shift their offices from the

respective buildings adjacent to existing District Court, to any other place. Principally they were agreed to the said proposal, but the allocation of

the alternative land to start all the three offices and other offices situated in those buildings is under consideration and not yet finalized. In case, the

Government allots the land to start construction on the said project, it would take atleast three years. On shifting those offices, the allocation of the

land which is about 1.78 Hectares may be possible to the existing District Court, which is adjacent to the existing District Court Building. Mr.

Dinesh Pandey, President, District Court Bar Association contends that the land allocated to the existing District Court is in encroachment of the

Hope Textile Mill, however, after demarcation the possession of the said land may be taken. It is further submitted that if the land of the office of

Revenue Commissioner, Indore, Labour Commissioner, Indore and Sales Tax Commissioner, Indore is allocated the need of the District Court

may be fulfilled. It is also said that near the existing District Court, across the road the Labour Court is situated and adjacent thereto the

Government premises are there which are in dilapidated condition, however, the said land may also be allocated by the Government for the

extension of the existing District Court and the present District Court may not be shifted to Piplihana.

The Collector, District Indore, states that he do not have any document in this regard, therefore, he is not in a position to make any proposal at

present, however, he will explore all the possibilities in this regard.

Mr. Anil Ojha, President, High Court Bar Association, Indore and Mr. Dinesh Pandey, President, District Court Bar Association, Indore have

proposed that if the visit may be made in presence of the advocates and the officers then the actual facts would come on record. The Collector and

the Commissioner, Municipal Corporation has agreed for the visit, immediately after the meeting in presence of the Hon''ble Judges. The discussion

with respect to the construction of the new District Court building at Piplihana in

detail could not take place on account of the objections of the advocates representing all the advocates in the meeting, however, by the consent of all, it is said that the probability for establishment of the new District Court building at Piplihana may be explored, subject to the said proposal. Considering the aforesaid, it is resolved:-

1. The demarcation of the land of the existing District Court land and building, and also the adjacent land of Hope Textiles shall be done by the revenue authorities. As assured by the Collector, within 15 days in presence of the representative of the Bar Association and the representative of the District & Sessions Judge, Indore, and a field map alongwith measurement shall be made available to the Registry of the High Court.

2. The Collector, District Indore has also agreed that the details of the land adjacent to the Labour Court, which belongs to the government alongwith existing area will be made available for perusal.

3. It is also resolved that in presence of the Revenue Officers, Commissioner, Municipal Corporation, Indore, Chief Executive Officer, Indore Development Authority (IDA), District Judge or his representative and the Registrar, High Court, Bench Indore or his representative leaving the space for the pond situated at Piplihana, the remaining land be find out. The adjacent land of the IDA, if vacant, may also be discussed for allotment to Coup (sic) up the need of the New District Court Building on leaving some area nearby pond as directed by National Green Tribunal.

The persons present have agreed to prepare such plan by joint venture.

4. The Chairman of the Committee, Hon"ble Shri Justice J.K. Maheshwari has opined that in the existing District Court premises the possibility of construction of 150 Court rooms with other ancillary requirements such as Bar Associations, place for stay of officers, place for stay of litigants, parking space of about 1000 cars and 2000 two wheelers, post office, dispensary, Creche, place for typists, photocopy shop and tuck shop may be designed in presence of the team of experts and also in presence of the representative of the District Court Bar Association and High Court Bar

Association. On such proposal, the Collector, District Indore, Commissioner, Municipal Corporation, Indore, do not have any objection,

however, it is resolved that the Collector, District Indore, Commissioner, Municipal Corporation, Indore and the District Judge, Indore shall

explore the possibility providing the team of experts that includes officers of the Town and Country Planning Department, City Planners, Architect

etc. They may explore the possibility of the said construction in the premises of existing District Court building in presence of representatives of the

District Court Bar Association and the District Judge and the report be submitted in this regard within one month, to the Registry of the High Court

through the District Judge, Indore.

10. In pursuance of the meeting held on 12.8.2017, demarcation of existing District Court land and building and the land adjacent to land of the

Mill was done by the revenue authorities and it was found that there is no encroachment on the land of District Court by the Mill. It was found that

total area of the said Mill is 12.153 acres and that there is a road in the north and across the road is new Siyaganj Market. In respect of the land

adjacent to Labour Court belonging to the Government alongwith the existing area can be made available, it was found that total area of Labour

Court campus is 606.47 square meter. Such area obviously is not suitable for construction of the District Court Complex with atleast 150 court

rooms.

11. The Revenue Authorities, Municipal Corporation and Indore Development Authority were directed to work out addition of adjacent land to

the remaining allotted land at Pipliyahana. It was found that an area of 3.50 acres, in Scheme No.140 of the Indore Development Authority, which

was earmarked for Sewage Treatment Plant (hereinafter referred to as "STP") and Club House, can be considered for allotment for the purpose

of Court Complex. The land allotted to District Court Complex has a frontage of 46 meters. The issues were again discussed in the meeting of

High Court Building and Maintenance Committee on 4.11.2017, and the proposal for allotment of the land of STP and Club House was sent to

the State Government. In a subsequent meeting held on 4.11.2017, it was resolved as under:-

It is resolved that in response to letter written by IDA to Commissioner, Municipal Corporation, Indore, steps shall be taken to hand over the

land of STP to Indore Development Authority within a week and thereafter Indore Development Authority shall take appropriate steps to transfer

the land within three weeks. So far as the transfer of the land of recreation

centre is concerned, the issue has been apprised to the Principal Secretary, Urban Development Department, Bhopal to do the needful. As requested by the Collector, he shall take steps within two weeks to take up the matter with all the local officials and also of the State Govt. The officers of the State Government shall take step to implement the resolution dated 9.10.2017 and its outcome shall be intimated prior to the next meeting.

12. Thereafter, another status report has been filed on behalf of the respondents on 19.12.2017, wherein it is stated as under:-

2. That the details of the land allotment and areas which were discussed were as under:-

(i) Total area 27.57 acres bearing Survey No.526/1/1 and 526/1/2 was allotted. For discussion on the issue map was prepared describing it to be

the proposed site plan for district court Indore and as per the measurement of reservoir an area admeasuring 9.37 acres was to be protected. A

copy of the proposed site plan map (Nazri Naksha) is filed herewith marked as ANNEXURE "1".

(ii) It was also discussed in the meeting that an area upto FTL admeasuring 30 meter is required to be left that was coming around 4.35 acres.

However, after discussion and deliberation on the issue instead of 30 meter it was decided to leave 20 meter more i.e.. 50 meter after leaving 9.37

acres land. During discussion it was recorded that after leaving 9.37 reservoir area and 50 meter to protect FTL level about 6 to 7 acres land will

further be left and hence approximately 11 acres land would be left for court building.

(iii) That in the said meeting it was decided that retention wall which was under construction at that time will be removed meaning thereby retention

wall earlier was at a distance of 30 meters and now will have to be shifted to 50 meters. Thereupon the administration has prepared second map

which is filed herewith and marked as ANNEXURE "2", after showing exact demarcation of 50 meter after 9.37 acres and now 12.25 acres land

is clearly available and earmarked and appropriate demarcation of the said land is done on the spot.

(iv) That in earlier proposed site plan 13.85 acres land was shown to be available but in the second map 12.25 is available for district court

building for the reason that as per the minutes of the meeting instead of leaving

30 meters it was unanimously resolved that FTL level to be left upto

50 meters from the bank of reservoir and therefore the area for district court building available is 12.25 acres.

(v) That so far as the possibility of allotment of other available land adjoining to the present 12.25 acres is concerned, the possibility of land

belonging to Indore Development Authority which was reserved for STP and club house was discussed and in principles it was decided that part

of the said land be allotted to the district court building.

3. That in pursuance to the same the district Collector has already sent proposal to the Divisional Commissioner and appropriate steps at

government level are being taken. However, the Office of the District Collector on 19.12.2017 has intimated to the Office of the Advocate

General that demarcation of 3.50 acres of IDA land has also been done on 18.12.2017 and the spot Panchnama is prepared and the land is found

to be vacant and advance possession of the said land can also be given to the authority designated for the said purpose subject to further

appropriate decision at government level to compensate the IDA for the said land. The Office of the Collector has also intimated that presently

including 3.5 acres land total 15.75 acres land is available for construction of district court building.

13. The Registrar of the High Court has also filed certain documents in respect of the Meeting held for the purpose of land for District Court

Complex. In the meeting held on 9.10.2017, attended by the Chairman of the High Court Building and Maintenance Committee, it was resolved as

under:-

* Resolved : Upon discussion, it is resolved that new District Court building at Pipliyahana may be constructed leaving the space for water

Reservoir as highlighted by Sky Blue Colour in the map and as specified after FTL for retention of the water in future, which is highlighted by

Green Colour. As specified by Hon''ble the Speaker, the retention wall, which is under construction at present to be removed in view of the

foregoing. It is also agreed, the land of STP and Recreation Center (Club) be allotted to for the new District Court Building and out of commercial

plot 7.20 acre, half of the plot be allotted to the Court subject to final outcome of Writ Petition No.1814/2007.

14. It is thereafter, that arguments were heard in the matter on 21.12.2017. Learned Advocate General stated that possession of additional land

admeasuring 3.5 acres, totaling 15.75 acres shall be delivered to the High Court on or before 31.12.2017. In terms of the said direction, additional

documents have been filed on 2.1.2018 to the effect that Indore Development Authority has transferred 3.5 acres of the land, forming part of

Scheme No.140, to the High Court for the purpose of construction of District Court Complex.

15. In the light of the above factual narration, the contention of the petitioner is required to be examined.

16. The first preference of the petitioner is for allotment of the land of the Mill i.e. land measuring 7.218 acres vested with the State Government.

The said land is though adjacent to the existing District Court building, but is subject to litigation pending before the High Court and the Hon"ble

Supreme Court. The State Government is the guarantor of the loan advanced to the Mill. The workers of the Mill have lodged a claim in respect of

their wages and gratuity which is pending either before the High Court (W.P. No.3153/2016 - M/s Hope Textiles Limited Vs. Kewalchand) or the

Hon"ble Supreme Court [SLP(C) No.24009 to 24051/2012].

17. Almost 45 cases are pending before this Court by/or against Hope Textiles Limited. The numbers of such cases are - Writ Petition Nos.

2822/2014, 2824/2014, 3155/2016, 4885/2007, 4944/2015, 6528/2013, 7482/2013, 7483/2013, 7484/2013, 7485/2013, 7486/2013,

7487/2013, 7527/2013, 7528/2013, 7529/2013, 7531/2013, 7533/2013, 7565/2013, 7573/2013, 7574/2013, 7580/2013, 7587/2013,

7610/2013, 7749/2013, 7802/2013, 7803/2013, 7805/2013, 7814/2013, 7819/2013, 7844/2013, 7848/2013, 7929/2013, 7930/2013,

7931/2013, 8309/2013, 8310/2013, 8312/2013, 9766/2012; First Appeal No.850/2000; ITA Nos. 29/2011, 30/2011, 31/2011, 32/2011,

33/2011; and, Writ Appeal No. 381/2008. Therefore, such land is not free of encumbrances. Still the land measuring 7.218 acres would not be

sufficient to raise construction of the building of atleast 179 Court rooms, already sanctioned, and the additional court rooms which may be

required due to increase in population or the court cases. This is apart from the fact that if the construction is to be raised on this land, then from

where the Courts would function for years. Therefore, we find that the adjacent land is neither available nor suitable for the Court building.

18. The other proposal was shifting of the offices of the Revenue Commissioner; Labour Court Commissioner; and, Sales Tax Commissioner,

Indore to their new location and resultantly to make available the land underneath. However, the problem with the said proposal is that such offices

can shift only on allotment of alternative land, which is under consideration. Even after the allotment, the construction will take atleast 3 years;

therefore, in any case the construction of the new building can start atleast after a period of 3 years. On shifting of the offices, land measuring 1.78

Hectare would be possible, but the construction of the building cannot start atleast for a period of 3 years. Again, the problem is non-availability of

sufficient land right away. Still further, the building is said to be heritage building.

19. Thus, there is no other alternative land available for construction of the new judicial complex. Land at Pipliyahana was allotted in 2000, more

than 17 years later the construction work once started had to be aborted because of intervention of Tribunal. Now, after leaving the area of pond,

land admeasuring 15.75 acres has been allotted and possession delivered, including land measuring 3.50 acres forming part of Scheme No.140 of

the IDA, which stands transferred to the High Court. Such land is most suitable for construction of new judicial complex, keeping in view the

present day requirement of 179 courts and also may be for subsequent expansion.

20. Therefore, we do not find any merit in the writ petition to direct the State to allot land adjacent to the existing District Court, for the

construction of the new District Court Complex.

21. In view of the above, we issue the following directions:-

(i) The State and/or the High Court shall earmark suitable portion of the land allotted to the High Court in Pipliyahana, for construction of

Chambers for Members of the Bar as per the Chamber Policy of the High Court or with such modification as the High Court may deem

appropriate keeping in view the number of applicants and the land available;

(ii) If the petitioner does not submit the requirement of chambers within one month, the learned District Judge, Indore shall invite applications from

the Members of the Bar, who are interested to have chambers in the land allotted

at Pipliyahana along with token application money, as may be

considered appropriate by the learned District Judge, so that only genuine practicing Lawyers apply for allotment of chambers.

(iii) The learned District Judge on receipt of the applications, within next three weeks, shall call a meeting of all such applicants, and to select five

representatives - who will take steps for the construction of the chambers for the practicing members of the Bar Association in terms of the Policy

of the High Court and keeping in view the land available for construction of chambers;

(iv) The State shall make requisite funds available for the construction of the District Judicial Complex in the next Financial Year i.e? 2018-19. The

construction should commence at the earliest, preferably within six months from today;

(v) The existing District Court Complex at Plot No.517, Mahatma Gandhi road shall remain allotted to the District Judiciary, which can be utilized

for future expansion to have additional Court Complex or such other requirements as the High court may consider appropriate after demolition of the existing structure.

22. Accordingly, the writ petition stands disposed of.