
(2020) 05 MP CK 0041

In the Madhya Pradesh High Court

Case No : Writ Petition No. 21017 Of 2019

Kirtesh Oswal

APPELLANT

Vs

Municipal Corporation, Bhopal

RESPONDENT

Date of Decision : 11-05-2020

Acts Referred:

Madhya Pradesh Municipal Corporation Act, 1956 — Section 310, 403
Code Of Civil Procedure, 1908 — Section 94

Citation : (2020) 05 MP CK 0041

Hon'ble Judges : Vishal Dhagat, J

Bench : Single Bench

Advocate : Kapil Duggal, Sanjay K. Agrawal, Anil Lala

Final Decision : Allowed

Judgement

1. Petitioner has filed the present writ petition seeking a direction to respondents to remove dilapidated building situated on plot No. 67 at Loha Bazar,

Bhopal. It is submitted by the counsel appearing for the petitioner that he has purchased plot No. 67 and he is owner of construction made on it. The

condition of the building standing on it is in dangerous state, therefore, he had moved an application under Section 310 of Madhya Pradesh Municipal

Corporation Act, 1956 for removal of dangerous building. Such building is a threat to public safety. Building has been purchased by four registered sale

deeds i.e. two sale deeds dated 01/08/2018 and two other sale deeds dated 13/12/2008. The application filed by the petitioner has been allowed by the

Municipal Commissioner vide its order dated 01/06/2019. Thereafter, one Chandragopal Yogesh Kumar Hayaran and Shailesh Kumar Hayaran have

filed an application under Section 94 of Code of Civil Procedure to stop interference of non-applicant namely Municipal Corporation, Bhopal from

interfering and demolishing the building situated at plot No. 67. Said application has been rejected by the Civil Judge vide order dated 01.07.2019.

Thereafter, Commissioner has passed repeated orders for demolition of building, but demolition has not taken place. Aggrieved by non compliance of

order, petitioner has filed the present writ petition making a prayer that respondents be directed to demolish the dilapidated building.

2. Chandragopal Hyaran has filed I.A. No. 2780/2020 for permission to intervene in the writ petition. It is submitted by the intervener that he had

entered into an agreement with the petitioner for reconstruction of his shop. As per the agreement, petitioner is required to provide him substitute shop,

but he is not following the agreement. If construction is started then intervener will be affected. He had filed an application before the Civil Court and

sought temporary injunction. Application for grant of temporary injunction has already been allowed vide order dated 01.07.2019. Trial Court in Civil

Suit No. 699-A/2018 has granted injunction against the petitioner not to interfere in the property situated in plot No. 67 himself or through his agent. In

view of above, intervener has made a prayer for dismissal of writ petition.

3. Considered the arguments of both the parties.

4. Municipal Corporation of Bhopal has already passed an order to remove the building on plot No. 61, which is in a dangerous state and may cause

danger to public safety. The order passed by Commissioner under Section 310 of Municipal Corporation Act is appealable. Intervener has not filed

any appeal under Section 403 of Municipal Corporation Act, 1956. Intervener has moved an application for injunction against the petitioner in civil suit.

Application of temporary injunction has already been allowed by the trial Court in respect of plot No. 67. Injunction is granted by the Civil Court

against the private parties from taking law in their hands and disturbing the status of the property or possession of the party. Municipal Commissioner

has passed an order under Section 310 of Municipal Corporation Act, 1956 to remove the dangerous building. Municipal Corporation is not a party in

the Civil Suit. Municipal Corporation is within its authority to remove any dangerous building as per law and the order of Civil Court will not come in its

way to remove the dangerous building.

5. In view of above, writ petition filed by the petitioner is allowed. Respondent-Municipal Corporation and its competent officer is directed to

comply with the order passed by Municipal Commissioner within a period of 30 days from receipt of certified copy of the order passed today. Period

of 30 days?? will be counted from the date when lockdown imposed due to COVID- 19 pandemic comes to an end.