
(2012) 12 MP CK 0060

In the Madhya Pradesh High Court

Case No : Writ Petition No. 20136 of 2012

Kishan Chand and Others

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 05-12-2012

Acts Referred:

Madhya Pradesh Land Revenue Code, 1959 — Section 248

Citation : (2012) 12 MP CK 0060

Hon'ble Judges : R.S. Jha, J

Bench : Single Bench

Advocate : Ashok Lalwani, for the Appellant; Mohan Sausarkar, learned counsel for the Respondent No. 2 on advance copy, for the Respondent

Judgement

R.S. Jha, Judge

1. Heard on the question of admission and interim relief. The petitioners have filed this petition being aggrieved by notice dated 16.11.2012 issued by the Tahsildar, Nainpur to the petitioners u/s 248 of the M.P.L.R.C. as well as notice dated 15.06.2012 issued by the Chief Municipal Officer, Municipal Council, Nainpur, District Mandla, whereby the petitioners have been directed to remove the alleged encroachment made by them on 22 x 1 sq. meter of government land.

2. It is submitted by the learned counsel for the petitioners that the land occupied by the petitioners were given to them in the year 1959 and since then the construction made thereon is standing. It is submitted that the petitioners have not made any further construction since 1959 nor have they constructed a tin shed. The petitioners further state that the Division Bench of this in W.P. No. 5071/2012(PIL) had disposed of a petition filed in public interest seeking removal of encroachment with a direction that the Chief Municipal Officer shall afford an opportunity of hearing to the necessary parties and pass a speaking order in accordance with law while taking steps to remove the encroachment but the authority concerned have not considered the petitioners reply, have not given

them any opportunity of hearing not have they passed a reasoned order before proceeding further in the matter.

3. It is submitted that the respondent authorities are taking forcible steps to remove the encroachment without following any procedure for the same or passing any orders specifying as to the actual encroachment made by the petitioners beyond the land that was allotted to them in the year 1959.

4. The learned counsel appearing for the respondent No. 2 submits that notices have been issued to the petitioners and proceedings in accordance with law are being taken up against them.

5. I have heard the learned counsel for the petitioners and looking to the fact that the petition has been filed against the notices issued to the petitioners and that the respondent authorities have yet to complete and finalise the proceedings in accordance with the direction issued by the Division Bench of this Court in W.P. No. 5071/12(PIL) decided on 04.04.2012; afford an opportunity of hearing to the petitioners and pass a speaking order in accordance with law and as the learned counsel for the respondent No. 2 submits that the procedure prescribed under the law shall be followed and the order of the Division Bench of this Court shall be complied with in letter and spirit, I am of the considered opinion that no order in the present petition at this stage needs to be passed as it goes without saying that the authorities would comply with the direction issued by the Division Bench of this Court in W.P. No. 5071/12(PIL) dated 04.04.2012 while considering the reply filed by the petitioners, affording them an opportunity of hearing and thereafter pass a speaking order in accordance with law clearly specifying the encroachments, if any made by them and the reasons for passing the order and that the authorities would not take any steps before completing the aforesaid exercise as directed by the Division Bench of this Court in W.P. No. 5071/12(PIL) dated 04.04.2012.

6. It needs no emphasis to state that the authorities while deciding the matter would also take into consideration the applications for demarcation filed by the petitioners before proceeding further in the matter. To enable the authorities to do so, a copy of the order passed today alongwith a copy of the petition be served on the authorities by the petitioners.

7. With the aforesaid observations, the petition filed by the petitioners stands disposed of. C.C. as per rules.