
(2014) 05 MP CK 0193
In the Madhya Pradesh High Court
Case No : W.P. No. 3705/2013

Mahendera Singh

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 08-05-2014

Acts Referred:

Citation : (2014) 05 MP CK 0193

Hon'ble Judges : S.K. Gangele, J;B.D. Rathi, J

Bench : Division Bench

Advocate : Prakash Braru, Advocate for the Appellant; Vivek Khedkar, Deputy Advocate General for Respondents/State, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

1. Heard.

2. The grievance of the petitioner is that the petitioner is owner of certain land, however the State authorities are trying to construct the road on the land of the petitioner.

3. The averments made by the petitioner have been denied by the respondents in the reply. Contrary, the contention of the respondents is that the petitioner has made encroachment on Government land. The relevant pleadings are as under:-

That, the contention of the petitioner is factually incorrect and legally untenable and contrary from the record. It is not disputed that land bearing S. No. 76 belongs to the petitioner, it is also not disputed that road which is situated in Western and Northern side of S. No. 76 and 78 is available which is in S. No. 72. S. No. 72 is government land on which government road is situated. Presently in North-Western side of S. No. 76 width of S. No. 72 is 20 ft. and the State Government is going to construct the road on the land bearing S. No. 72 which is available on the spot. Land bearing S. No. 72 is 40 ft. Wide in the northern side of S. No. 76 and 78. The report in this regard has been given by the Revenue Officers to the Executive Engineer, Rural Engineering Services. Copy of the report

is annexed herewith and marked as Annexure R/1 and the copy of Khasra along with map is also annexed herewith and marked as Annexure R/2 collectively.

Now petitioners are trying to get benefit of encroachment which has been done by him in the north-western side of land bearing S. No. 76 and claimed width of road only 20 fit. This fact is factually incorrect and legally untenable. On the spot department is trying to construct road after demarcation, but the petitioner is creating hindrance by putting jhakhar etc. and also constructing Khanti/Drain, so that road cannot be constructed. It is very important road to reach to Poni to Dinora Village and on account of adamant attitude and status quo order passed by this Hon"ble Court, answering respondents are not able to construct the road, because petitioner and his family members are having criminal back ground and mentality. Though engineers of Rural Engineering Service have submitted report in this regard to the concerning Tehsildar as well as Police, but no adequate action has been taken and in the mean time status quo order has been passed by this Hon"ble Court.

4. Counsel for the petitioner has submitted that the respondents have not conducted any demarcation of the land. Petitioner is the owner of the land.

5. In our opinion, in writ jurisdiction no decree of injunction can be granted by the Court. The respondents have clearly pleaded that they are constructing road on Government land. In support of the aforesaid contention, the letter written by Revenue Inspector to the Executive Engineer has been filed. The petitioner has not submitted any application for demarcation of the area in accordance with the provisions of M.P. Land Revenue Code 1959.

6. In such circumstances, in our opinion, under writ jurisdiction no relief can be granted in favour of the petitioner. The petitioner is at liberty to file appropriate proceeding. Petition is disposed of accordingly.

7. No order as to costs.