
(2020) 06 MP CK 0112

In the Madhya Pradesh High Court

Case No : Writ Petition No. 8964 Of 2020

Maresh Keliniya & Anr.

APPELLANT

Vs

Indore Municipal Corpn & Ors.

RESPONDENT

Date of Decision : 29-06-2020

Acts Referred:

Madhya Pradesh Municipal Corporation Act, 1956 — Section 69(4), 310

Citation : (2020) 06 MP CK 0112

Hon'ble Judges : S. C. Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

The petitioners before this Court have filed this present writ petition being aggrieved by the 20/5/2020 issued u/S. 310 of the M. P. Municipal

Corporation Act, 1956.

The contention of the petitioners is that respondent No.3 was unsuccessful in evicting the petitioner through judicial process and now in connivance

with the Officers of the Indore Municipal Corporation, Indore, the petitioner are being evicted from the premises in question. The petitioners have

stated that a notice was issued to them u/S. 310 of the M.P. Municipal Corporation Act, 1956 and the petitioners submitted reply, however, the

respondents No.1 and 2 are now going to take coercive action by demolishing the building. It has been stated that the entire house is in dilapidated

condition and the portion in which the petitioner is a tenant is in good shape. Reliance has also been placed upon the judgment delivered by this Court

in the case of Dharmendra Vs. Dhanjay Sharma & Ors. (W.A.No. 294/2019, decided on 10/5/2019) and it has been argued that unless and until there

is an opinion by the Commissioner, the building cannot be demolished.

A detailed and exhaustive reply along with photographs, have been filed by the respondent Corporation and it has been stated that an order was

passed by the Commissioner, Urban Development, to ensure that the dilapidated building or buildings dangerous for human habitation, should be

demolished to avoid loss of human life and with that backdrop inspection was carried out in respect of large number of buildings in the township of

Indore. The respondents have enclosed Annexure R/4, in respect of 18 buildings / persons, and the petitioner's building also finds place in the list. The

respondents have stated that after conducting inspection and after physical verification a report was submitted in the matter to the Commissioner and

the Commissioner after forming an opinion, has directed to pull down the building in question, as it is in a dilapidated state. It is a threat to life and

property of the residents of the area. Photographs have also been filed along with the reply and they do reveal that the building is in a very bad shape.

The respondents have stated that notice was served through affixture on 07/06/2020 and the petitioners are trying to change the date of notice, as per their convenience.

This Court, in similar circumstances, in the case of Anil Vs. Indore Municipal Corporation (W.P.No. 7826/2020, decided on 04/06/2020), in paragraphs

9 to 14 has passed the following order :

9. Heard the learned counsel for the parties at length and perused the record.

10. The facts of the case reveal that the building in question is a very old structure and as per the report filed by the petitioner himself the structure is 75 years old.

11. Shri Baheti, learned counsel while arguing the matter was fair enough in stating that the parts of 2nd and 3rd floors have collapsed, however, he has stated that so

far as the ground floor is concerned, it is safe and sound and there is no necessity to remove the ground floor also.

12. The facts of the case reveal that a large portion of 2nd floor and 1st floor have already collapsed and the shop is situated on ground floor. Even as on date, partial

structure of 2nd floor and partial structure of 3rd floor are in existence. The inspection report 12.05.2020 and the Panchnama as well as photographs make it very clear

that the building has already partially collapsed and remaining structure is certainly dangerous to human lives and in those circumstances, the action has been

initiated by the Indore Municipal Corporation. Section 310 of M.P. Municipal Corporation Act, 1956 read as under:-

310. Removal of buildings in dangerous state.-

If , in the opinion of the Commissioner, any building , wall, structure including under this expression any building, wall, parapet, pavement, floor, steps, railings, door or window frames or shutters or roof or other structure and anything affixed to or projecting from or resting on any building, wall, parapet or other structure, or any tree standing thereon is in dangerous state, the Commissioner may by a notice in writing , require the occupier or owner thereof forthwith either to demolish or remove the building, wall, structure or any such tree or cause such repairs to be made there to as he considers necessary for the public safety; and if the danger appears to him to be imminent, he may forthwith take such steps as may be required to avert such danger, including the forcible removal without notice

from such building of all the occupiers thereof and their property.

13. In light of the aforesaid statutory provisions of law, it can safely be gathered that the Corporation does have the power of removal of dangerous building. In the

present case, the Commissioner has already formed an opinion based upon the material and has rightly directed the building officer to take action keeping in view

Section 69 (4) of M.P. Municipal Corporation Act, 1956. Resultantly, this Court does not find any reason to interfere with the impugned notice dated 30.05.2020.

14. In larger public interest as more than half of the portion of the building has already collapsed, this Court does not find any reason to interfere with the order passed by the Commissioner. The present petition is, accordingly, dismissed.

In the light of the aforesaid order, as the major portion of the building has already collapsed, it is a threat to human life, it can collapse at any point of

time and an opinion was formed by the Commissioner, for demolition and proper notice was given to the petitioner, this Court does not find any reason

to interfere with the impugned order passed by the respondents in respect of demolition of the building. No case for interference is made out in the

matter.

Accordingly, the Writ Petition is dismissed.