
(2018) 07 MP CK 0036

In the Madhya Pradesh High Court

Case No : Revision Petition No..1072 Of 2017

Municipal Council Neemuch

APPELLANT

Vs

Mahadeo Real Estate & Ors

RESPONDENT

Date of Decision : 05-07-2018

Acts Referred:

Madhya Pradesh Municipalities Act, 1961 — Section 109, 109(3)(ii)

Madhya Pradesh Municipalities (Transfer of Immovable Property), Rules, 1996 — Rule 3, 7

Constitution of India, 1950 — Article 12, 14

Citation : (2018) 07 MP CK 0036

Hon'ble Judges : Pankaj Kumar Jaiswal, J;Sunil Kumar Awasthi, J

Bench : Division Bench

Advocate : V.K. Jain, Abhishay Jain, S.C. Bagadiya, Ajay Mishra, Umesh Gajankush

Final Decision : Dismissed

Judgement

This review petition has been filed by the petitioner (respondent No.3 in the writ petition) "Municipal Council, Neemuch, for reviewing the order

dated 31/08/2017, passed in W.P. No.12204/2010 on the ground that powers for granting an approval are vested in the State Government and after

receipt of letter dated 21/12/2009 by the Revenue Commissioner, Ujjain wrote a letter on 3/03/2010 to the Government of Madhya Pradesh for

action/decision to be taken at the State Government level. Thereafter, the State Government by its letter dated 18/05/2010 again intimated the

Revenue Commissioner, Ujjain whereby clarifying and authorizing the Revenue Commissioner, Ujjain to examine the matter in accordance with

Section 109 of the M.P. Municipalities Act, 1961 and the Rules of 1996. It was also clarified that if the Revenue Commissioner is not agreed with

the proposal of the petitioner, the Revenue Commissioner shall be entitled to reject the same and shall also be entitled to direct the petitioner to take

action afresh, Along with the review application a letter (Annexure-A/2) dated 18/05/20210, Annexure-A/3 dated 13/09/2012 and Annexure-A/4

which was not part of the record of the writ petition have been filed and relying on the aforesaid letters the ground has been taken that there is error

apparent on the face of the record and prays for review of the order.

2. A preliminary objection was raised by the learned Senior Counsel for the respondent No.1 and submitted that the Municipal Council, Neemuch who

was respondent No.3 in the writ petition accepted the offer of the respondent No.1(writ petitioner) and has issued a letter dated 27/09/2008, informing

the respondent No.1 that the tenders submitted by the respondent No.1 was accepted and it was further directed to deposit the amount of

Rs.1,45,25,050/-, 25% of the bid amount, within a period of seven days.

3. The respondent No.1 in compliance to letter dated 27/09/2018 has deposited 25% of the bid amount, amounting to Rs.1,45,25,050/- vide Cheque

bearing No.007804, dated 1/10/2008 drawn at Axis Bank Ltd., Neemuch. Thereafter, the petitioner (respondent No.3 therein), Neemuch sought an

opinion from Collector, Neemuch and the Resolution was sent for his approval. The Collector, Neemuch has approved the resolution on 23/12/2008

passed by the respondent No.3 and has held that the owner of the land was Municipal Council, Neemuch. The relevant part of the Resolution is

quoted in para 6 of the order passed by the learned writ Court in W.P. No.12204/2010.

4. It is further submitted that after approval from the Collector, Neemuch the Municipal Council, Neemuch sent the matter for the approval of the

State Government (Urban Administration and Development Department) under Section 109 of the Municipalities Act, 1961 and Rule 7 of M.P.

Municipalities (Transfer of Immovable Property), Rules, 1996. After enquiring the matter, the Principal Secretary approved and sanctioned the bid

of the respondent No.1 vide his communication dated 21/12/2009 and authorised the respondent No.3 to hand over the possession of the land to the

respondent No.1 Firm and has directed him to only examine the land use of the land so that it has to be as per the Development Plan,

2011. Relevant part of the approval and sanction granted by the State

Government has been quoted in para 7 of the writ order.

5. He has also drawn our attention to the reply filed by the Municipal Council.Â
Para 1 to 4 of the reply to the writ petition filed by the Municipal

Council on 28/02/2011 reads as under :-

1. The present petition is filed against the order dated 3-7-10 passed by the Revenue Commissioner of Ujjain Division whereby, the resolution of the answering respondent for allotment of land admeasuring 163176 sq. ft. situated in Scheme no.1A at Neemuch for commercial even residential purpose has been rejected.

2. It is submitted that the answering respondent called tender for allotment of the aforesaid plot by advertisement. The terms of allotment/NIT were duly prescribed(copy of same is annexed as Annexure P/3).

That the clause No.4 of the said terms specifically prescribe that after the proposal/resolution of the Municipality the same shall be forwarded to the

State Government and only after approval of the State the allotment shall be made. Further Clause No.21 also gives absolute power to the respondents

for cancellation of the NIT even without assigning any reasons. The said terms of NIT were duly accepted by the petitioner.

3. That in the process four companies/firm participated in the tender process out of which the petitioner was the highest bidder, thus accordingly the resolution was passed andÂ forwarded to the State Government for its approval.

4. The State Government authorized the respondent No.2 for the purpose of examining and scrutinizing the proposal/resolution and after the same it

was found that the offers which were remind pursuant to the NIT were not of competitive nature and the NIT was also not adequately published, thus

no satisfactory offer was received. Thus, the resolution passed by the answering respondent was rejected and matter has been remanded back for

inviting fresh tenders.

6. The Division Bench of this Court after appreciating the stand taken by the Municipal Council as well as by the State Government allowed the writ

petition(W.P.) No.12204/2010)on 31.08.2017 by issuing the following directions in para 6 to 17 which reads as under :-

6. Thereafter, the respondent No.3 sought an opinion from Collector, Neemuch and the Resolution was sent for his approval. The Collector, Neemuch

has approved the Resolution on 23.12.2008 passed by the respondent No.3 and has held that the owner of the land was Municipal Council, Neemuch.

Relevant part of the Resolution reads as under:-

01- uxjikfydk ifj""kn uhep ds }kjk vius ladYi dz-50 fnukad 08-04-2008 ls uhep uxj dh ty vko/kZu ;kstuk ds fdz;kUo;u gsrq fuf/k dh O;oLFkk ds fy;s

uxjikfydk ifj""kn uhep ds ikl miyC/k Hkwfe dks yht ij fufonk vFkok fuykeh ls nsus dk fu.kZ; fy;k x;k gSA ladYi dh Nk;kizfr layXu gSA

02- uik ifj""kn ds ladYi ds ikyu esa ekLVj Iyku esa okf.kfT;d iz;kstu ds fy;s ntZ (Nk;kizfr layXu gS)] iwoZ peZâ??kks/ku dsUnz ekxZ ij fLFkr

uxjikfydk LokfeRo dh 163176 oxZQhV Hkwfe dks ;kstuk dza-1, (okf.kfT;d lg vkoklh; iz;kstu) ds :i esa fpfUgr dj o""kZ 2008&09 dh xkbZM

ykbZu@cktkj nj vuqlkj (Nk;kizfr layXu gS)] fu/kkZfjr O;olkf;d nj :-288@& izfr oxZQhV ds eku ls Hkwfe dh fjtoZ izhfe;e :-4-70 djksM+ o fjtoZ izhfe;e

dk okf""kZd yhtjsaV :-9-40 yk[k o /kjksgj@fufonk jkfâ??k :-47-00 yk[k fu/kkZfjr dj fufonk }kjk 30 o""kZ gsrq yht ij nsus ds fy;s uik }kjk foKfIr fnukad

26-06-2008 tkjh dj] nSfud HkkLdj] nSfud ubZnqfu;k] Qzh iszl] nSfud nâ?? kiqj ,Dlisl lepkj i= esa izdkfâ??kr djkbZ xbZA(Nk;kizfr layXu gS)]

03- ;g fd fuEufyf[kr fufonknkrkvksa }kjk /kjksgj@fufonk jkfâ??k fu;ekuqlkj ,d fnol iwoZ uik dks""k esa tek dj] fn- 18-07-2008 dks le; 3 ls 4 cts fnu dks

uik esa fuEukuqlkj fufonk,a izkIr gqbZ %&

Â dza-Â fufonknkrk dk ukeÂ Â Â izLrqr nj

1- eS- fl)h fouk;d] uhepÂ Â Â :-5-72 djksM+

2- eS-,e-oh-,l-bUQzkLVÂªDpj izk-fy-] euklk :-4-81 djksM+

3- eS-egknso fj;y LVsV] uhepÂ Â :-5-81 djksM+ 4-Â eS-vkatuk daLVÂªDâ??ku daiuh] uhepÂ Â :-5-75 djksM lcls vf/kdre jkfâ??k dh fufonk

eS-egknso fj;y LVsV] uhep dh :i;s 581 djksM+ dh izkIr gqbZA

04- ;g fd Jh jkdsâ??k mQZ iIiw tSu ,oa Jh eggsanz HkVukxj ik""kZn}; uik uhep } kjk eku- dysDVj U;k;ky; ftyk uhep ds le{k e-izuxjikfydk vf/kfu;e]

1961 dh /kkjk 323 ds rgr fufonk foKfIr dks pqukSrh nh xbZA eku-U;k;ky; dysDVj ftyk uhep }kjk fn-18-07-2008 dks lk;a 5 cts izdj.k esa LfKxu

vknsâ??k ikfjr fd;k x;kA izdj.k esa LfKxu izkIr gksus ls] eku-U;k;ky; ds vafre fujkdj.k rd izdj.k esa dk;Zokgh LfKfxr j[kh xbZA eku-U;k;k-dysDVj

ftyk uhep }kjk mHk;i{k lquokbZ mijkar fn-25-08-2008 dks fu.kZ; fn;k x;k fd uxjikfydk uhep }kjk dh tk jgh dk;Zokgh oS/k gSA] (Nk;kizfr layXu gS)

05- ;g fd eku-U;k;ky; }kjk ikfjr fu.kZ; mijkar izdj.k mPpre fufonk Lohd`fr gsrq ifj""kn ds le{k cSBd fopkjkFkZ izLrqr fd;k x;kA ifj""kn }kjk ladYi dzekad

218 fnukad 24-09-2008 }kjk uik uhep dh ;kstuk dz-1, (okf.kfT;d lg vkoklh; iz;kstu) dh Hkwfe dks 30 o""kZ dh vof/k ds fy;s yht ij nsus gsrq izkIr vf/kdre

vkWQj jkfâ??k :5]81]00]106@& v{kjs :i;s ikWp djksM+ bD;klh yk[k] ,d lkS Ng dh eSegknso fj;y LVsV uhep dh Lohdkj dh tkdj e-iz-â??kklu dks

Lohd`fr gsrq izLrko izsf""kr djus dk fu.kZ; fy;k x;k gSA ladYi dh Nk;kizfr layXu gSA

06- ;g fd e-iz- uxjikfydk vf/kfu;e] 1961 dh /kkjk 109 ,oa mlds vUrxZr cus e-iz- uxjikfydk vpy lEifRr varj.k fu;e] 1996 ds fu;e 7 ds rgr izsf""kr okafNr

tkudkjh dh izfr layXu gSA

07- ;g fd vk;qDr lapkyuky; uxjh; izâ??kklu ,oa fodkl Hkksiky } kjk uxjikfydk uhep ls i= dz-â??kk&2@Hkwfe@2008@14486 fn-21-10-2008 }kjk

pkggh xbZÂ Â vU; tkudkjh] uik uhep }kjk i= dz-798@jk-fo@yht@2008 fn-23-10-2008] 846@jk-fo-@yht@08 fn-03-11-08 ls izsf""kr dh xbZ gSA

Nk;kizfr layXu gSA

08- ;g fd izâ??uk/khu Hkwfe uxjikfydk ifj""kn uhep dh lhek esa fLFkr Nkouh {ks= dh Hkwfe gSA Nkouh {ks= vulosZM ,fj;k gksus ls jktLo

vfHkys[k@[kljs [kkrs esa ntZ ugha gSA izâ??uk/khu Hkwfe utwy Hkwfe u gksdj] uxjikfydk LokfeRo dh Hkwfe gSA

vr% ifj""kn ladYi dz-218 fnukad 24-09-2008 vuqlkj uik uhep dh ;kstuk dz-1, (okf.kfT;d lg vkoklh; iz;kstu) dh 163176 oxZQhV Hkwfe e-iz-uxjikfydk

vf/kfu;e] 1961 dh /kkjk 109 ,oa mlds vUrxZr cus e-izuxjikfydk vpy lEifRr varj.k fu;e] 1996 ds rgr eS- egknso fj;y LVsV uhep dks mPpre vkWQj

jkfâ??k :- 5]81]00]106@& v{kjs :i;s ikWp djksM+ bD;klh yk[k] ,d lkS Ng ij 30 o""kZ dh vof/k ds fy;s yht ij nsus dk izLrko vuqâ??kaflrA d`i;k 'kklu

Lohd`fr iznku djus dk d""V djsaA â??

7. After approval from the Collector, Neemuch the Municipal Council, Neemuch sent the matter for the approval of the State Government (Urban

Administration and Development Department) under Section 109 of the Municipalities Act, 1961 and Rule 7 of M.P. Municipalities (Transfer of

Immovable Property), Rules, 1996. After enquiring the matter, the Principal Secretary approved and sanctioned the bid of the petitioner vide his

communication dated 21.12.2009 and authorized the respondent No.2 to hand over the possession of the land to the petitioner firm and has directed

him to only examine the land use of the land so that it has to be as per the Development Plan 2011. Relevant part of the order of the State

Government reads as under:-

fo" k; kUrxZr lanfHkZr i= }kjk milapkyd uxjh; izâ??kklu ,oa fodkl mTtSu us vk;qDr uxjh; izâ??kklu ,oa fodkl dks uhep uxj dh ty vkoZ/ku ;kstuk

ds fdz;kUo;u gsrq fuf/k dh O;oLFkk ds fy, uxj ikfydk ifj""kn uhep }kjk ekLVj Iyku esa okf.kfT;d iz;kstu ds fy, ntZ iwoZ peZ 'kks/ku dsUnz ekxZ ij

fLFkr uxj ikfydk LokfeRo dh 163176 oxZ QhV Hkwfe dks ;kstuk dzedkad 1, okf.kfT;d lg vkoklh; ;kstuk ds :i esa fpfUgr dj yht ij fufonk vFkok uhykeh

Is fn, tkus ds fy, ikfjr ladYi dzedkad 50 fnukad 08-04-08 dks izLrko 'kklu dks Lohd`fr gsrq izsf""kr fd;k x;k Fkka

2- izdj.k ds ijh{k.kksijkUr ik;k x;k gS fd la;qDr lpa kyd uxj rFkk xzke fuosâ??k }kjk fn, x, erkuqlkj izâ??uk/khu Hkwfe dh jkfâ??k dk vkdyu dysDVj

xkbZM ykbZu 2008&09 ds }kjk fd;k tkdj fuekZ.k dk;Z ekLVj Iyku ds varxZr fd;k tk;sA

3- vr% jkT; 'kklu ,rn~}kjk e0iz0 uxj ikfydk vf/kfu;e 1961 dh /kkjk 109 ,oa bls varxZr fufeZr e-iz- uxj ikfydk vpy laifRr varj.k fu;e 1996 ds fu;e 7 ds rgr

izâ??uk/khu uxj ikfydk dh Hkwfe dks fufonk ds ek;/e Is mPpre cksyh drkZ eSIIZ egknso jh;y LVsV uhep dks gaLrkrfjr djus ds fy, vk;qDr mTtSu

laHkkx mTtSu dks vf/kd`r djrk gSA vk;qDr mTtSu laHkkx gLrkUrj.k ds iwoZ ;g ijh{k.k.k djysa fd izâ??uk/khu Hkwfe dk iz;kstu uhep fodkl

;kstuk&2011 ds vuq:i gSAâ??

8. The petitioner after receipt of letter dated 21.12.2009 has approached the respondent No.2 for taking the possession of the said land but respondent

No.2 has not taken any action in this regard. The respondent No.2 instead of handing over the possession of the land in question to the petitioner firm,

has passed an order dated 3.7.2010 and stated that as the publication of the bid was only made in two newspapers of Indore and the bid invited were

not competitive, therefore, set aside the proposal. This order has been passed without issuing any show cause notice to the petitioner and without

granting any opportunity of hearing to the petitioner. As per resolution passed by the Municipal Council and the order passed by the Collector and the

State Government, it is not in dispute that number of persons participated in the tender process and their bids were opened in presence of their

representatives and none of them have raised any objection that the bid was not

competitive and no wide circulation has been made.

9. From the letter (Annexure P/8) the Principal Secretary of the State Government has only directed and authorized the respondent No.2 to ascertain the market value as per guideline and handover the possession of the said land to the petitioner firm. But the respondent No.2 exceeded his jurisdiction

and passed the order dated 3.7.2010. Admittedly, the land in question was in the ownership of the Municipal Council, Neemuch. The Municipal

Council, Neemuch after complying the provisions of Section 109 of M.P. Municipalities Act, 1961 and Rule 7 of M.P. Municipalities (Transfer of Immovable Property), Rules, 1996 accepted the tender of the petitioner.

10. Learned Senior Counsel has submitted that as per M.P. Municipalities (Transfer of Immovable Property) Rules, 1996 no immovable property

which yields or is capable of yielding an income shall be transferred by sale, or lease or otherwise conveyed except to the highest bidder at a public

auction or offer in a sealed cover. In the case in hand offer was invited in four newspapers i.e. Dainik Bhaskar, Naiduniya, Free Press and

Daspur Express which has wide circulation and on the basis of the aforesaid invitation the Municipal Council received four tenders and all the four

tenders were opened in presence of their representatives and, therefore, the order of the Commissioner Ujjain Division, Ujjain that bid invited were not

competitive or the publication of bidding was made only in two newspapers is incorrect and prayed for quashment of order dated 3.7.2010.

11. The stand of the respondent Nos. 1 and 2 is that as per the provisions of Sub-Section 3 (ii) of Section 109 of the Municipalities Act, 1961 the

approval of the State Government is necessary if the transfer of rights of any immovable property exceeding 50,000/- is to be effected. The Rule 7 of

the M.P. Municipalities (Transfer of Immovable Property) Rules, 1996 also postulates approval from the State Government. The N.I.T. was widely

published in Dainik Bhaskar, Naiduniya newspapers and Free Press, which has wide circulation in Indore Division as well as in Neemuch as a result

of which there was adequate and proper competition in the process. The State Government vide letter dated 21.12.2009 authorized the Commissioner,

Ujjain Division, Ujjain to allot the land on lease in favour of the petitioner.

12. The respondent No.2 is a 'State' within the meaning of Article 12 of the Constitution of India. Its conduct in all fields including a contract is

expected to be fair and reasonable. It was not supposed to act arbitrarily, capriciously or whimsically.

13. It is trite that if an action on the part of the State is violative the equality clause contained in Article 14 of the Constitution of India, a writ petition would be maintainable even in the contractual field. A distinction indisputably must be made between a matter which is at the threshold of a contract and a breach of contract; whereas in the former the Court's scrutiny would be more intrusive, in the latter the Court may not ordinarily exercise its discretionary jurisdiction of judicial review, unless it is found to be violative of Article 14 of the Constitution. While exercising contractual powers also, the Government bodies may be subjected to judicial review in order to prevent arbitrariness or favouritism on its part. Indisputably, inherent limitations exist, but it would not be correct to opine that under no circumstances a writ will lie only because it involves a contractual matter.

14. It is well settled that while exercising the power of judicial review the court is more concerned with the decision making process than the merit of the decision itself. In doing so, it is often argued by the defender of an impugned decision that the court is not competent to exercise its power when there are serious disputed questions of facts; when the decision of the Tribunal or the decision of the fact-finding body or the arbitrator is given finality by the statute which governs a given situation or which, by nature of the activity the decision-maker's opinion on facts is final. But while examining and scrutinizing the decision-making process it becomes inevitable to also appreciate the facts of a given case as otherwise the decision cannot be tested under the grounds of illegality, irrationality or procedural impropriety. How far the court of judicial review can reappreciate the findings of facts depends on the ground of judicial review. For example, if a decision is challenged as irrational, it would be wellnigh impossible to record a finding whether a decision is rational or irrational without first evaluating the facts of the case and coming to a plausible conclusion and then testing the decision of the authority on the touchstone of the tests laid down by the Court with special reference to a given case. This position is well settled in the Indian administrative law. Therefore, to a limited extent of scrutinizing the decision-making process, it is always open to the court to review the evaluation of facts by the decision-maker.

15. Rule 3 and 7 of the M.P. Municipalities (Transfer of Immovable Property) Rules, 1996 reads as under:-

3.No immovable property which yields or is capable of yielding an income shall be transferred by sale, or lease or otherwise conveyed except to the

highest bidder at a public auction or offer in a sealed cover : Provided that if the Council is of the opinion that it is not desirable to hold a public auction

or to invite offers in sealed covers for such transfer, the Council may, with the previous sanction of the State Government, effect such transfer without

public auction or inviting offers in sealed covers :

Provided further that the Council may, for reasons to be recorded in writing, transfer such immovable property to a bidder other than the highest

bidder, with the previous sanction of the State Government :

Provided also that in any such transfer by lease, a reasonable premium shall be payable at the time of granting lease and annual rent shall also be

payable during the whole term of the lease.

16. Clause (ii) of sub-section (3) of Section 109 of M.P. Municipalities Act, 1961 reads as under :(3) The sanction of the President-in-Council or of the

Council under sub-section (2) may be given either generally for any class of cases or specially in any particular case: Provided that -

(i) no property vesting in the Council in trust shall be leased, sold or otherwise conveyed in a manner that is likely to prejudicially effect the purpose of

the trust subject to which such property is held;

(ii) no land exceeding fifty thousand rupees in value shall be sold or otherwise conveyed without the previous sanction of the State Government and

every sale or other conveyance of property vesting in the Council shall be deemed to be subject to the conditions and limitations imposed by this Act or

by any other enactment for the time being in force.

17. From the perusal of the aforesaid, it is clear that tender has been invited in one or more local newspapers and shall be widely made known in the

matter as determined by the Council. In the present case, the tender was invited in four newspapers which have wide circulation over an area where

the property is situated and, therefore, the action of the respondent No.2 is contrary to the Rules of 1996. From the facts as narrated above, the

Municipal Council after accepting the bid of the petitioner passed a resolution No.218 and referred the same to the Collector, Neemuch, for approval.

The Collector Neemuch has approved the Resolution on 23.12.2008 and has held that the owner of the land was Municipal Council and recommended

to the Government of M.P. for its approval under Section 109 of the M.P. Municipalities Act, 1916. The State Government vide communication dated

21.12.2009, granted approval under Section 109 of the M.P. Municipalities Act, 1961 and Rule 7 of M.P. Municipalities (Transfer of Immovable

Property) Rules, 1996 and authorized the respondent No.2 " Revenue Commissioner to transfer the same to the petitioner. By the aforesaid

authorization the respondent No.2 has a limited power to examine the matter as per terms of approval granted by the State Government. He has to

see that the grant is as per Section 109 of M.P. Municipalities Act, 1961 and Rule 7 of M.P. Municipalities (Transfer of Immovable Property) Rules,

1996 or not and he has to only examine the 'land use of the land', so as it is to be as per Neemuch Development Plan " 2011. Admittedly, the land

use of the land is as per the Neemuch Development Plan " 2011. Thus, he being the delegated authority of the State Government is bound to

handover the possession of the land to the petitioner " firm. The action of the respondent No.3 is not bona fide nor is in public interest. The decision

made by the respondent No.2 is arbitrary and irrational and no responsible authority acting responsible in accordance with law, could have passed such

an order when his role was limited and he has to examine the matter in the light of order passed by the State Government on 21.12.2009. The

petitioner has paid Rs.47,00,000/- as earnest money and thereafter, after accepting his bid, he has deposited 25% of the bid amount, ie., 1,45,25,050/-.

The action of the respondent No.2 is not in public interest. We, therefore, quash the impugned order dated 3.7.2010 and direct the respondent No.3 to

grant approval on behalf of the State Government in terms of letter dated 21.12.2009 of the Government of Madhya Pradesh.

7. Learned Senior Counsel for the respondent No.1 has submitted that the Municipal Council has accepted the bid after finalizing the proposal, which

was sent for the approval. The State Government after examining the matter came to the conclusion that there was no flaw and authorized the

Revenue Commissioner to examine the matter and issue appropriate order therein. He further submitted that as per M. P. Municipalities Act, 1961

and Rules made thereunder, there is a requirement to publish the bid/NIT in two newspapers. The procedure as prescribed has been followed and

adopted by the Municipal Council, the order passed by the Revenue Commissioner was rightly set aside. The approval for the sale of immovable property was granted by the State Government on the proposal made by the Municipal Council and later on the same was duly approved by the Collector. Now at later stage, there is no requirement to again grant approval, only the property has to be transferred by the Municipal Council in view of the order passed by the State Government.Â He lastly submitted that the learned writ Court considered each and every aspect of the matter while passing the impugned order.

8. The letter which has been filed along with the review petition was not brought to the notice of the Court nor in their reply the aforesaid stand was taken, the proposal has already been approved by the State Government, the Municipal Council is only required to act and hand over the possession in view of the order passed by the State Government.Â No fresh approval is required in the matter. The State Government has already granted the approval, the Revenue Commissioner was only authorized to hand over the possession on behalf of the State Government. There is no error apparent on the face of the record and prayed for dismissal of the review petition.

9. It is well settled that no review is permissible on the ground that the Court has proceeded on wrong preposition of law or on the ground that the decision is erroneous on merits. The review is permissible only for correction of mistake apparent on the face of the record but not to substitute views.

We cannot review the order impugned merely because the interpretation of a document has not been made in the proper perspective. Mere discovery of new or important matter or evidence is not sufficient ground for review *ex debito justitiae*, the petitioner seeking review has to show that such additional matter or evidence was not within his knowledge and even after exercising of due diligence, the same could not be produced.

9. From the reply as well as in the main application, no such ground was taken nor it was the case of the Municipal Council that after exercising of due diligence, the letters on which they are placing reliance were could not be produced in writ proceedings.

10. For the above mentioned reasons, we are of the view that the review application has no merit and is, accordingly, dismissed but without any order as to costs.